

CHAPTER 18
MAIL, VISITS AND TELEPHONE

Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 18, Mail, Visits and Telephone, expires on April 14, 2003. See: 34 N.J.R. 3050(a).

Chapter Historical Note

Chapter 18, Mail, Visits and Telephones, was adopted as R.1987 d.263, effective July 6, 1987. See: 19 N.J.R. 33(b), 19 N.J.R. 1214(b).

Pursuant to Executive Order No. 66(1978), Chapter 18 was readopted as R.1992 d.262, effective May 27, 1992. See: 24 N.J.R. 1204(b), 24 N.J.R. 2627(a). Subchapter 7, Bedside and Funeral Visits, was renamed as Subchapter 7, Bedside, Private Viewing, and Funeral Visits, by R.1996 d.489, effective October 21, 1996. See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b). Pursuant to Executive Order No. 66(1978), Chapter 18 expired on May 27, 1997.

Chapter 18, Mail, Visits and Telephone, was adopted as R.1997 d.431, effective October 6, 1997. See: Source and Effective Date.

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SUBCHAPTER 1. INTRODUCTION

10A:18-1.1 Purpose

(a) The purpose of this chapter is to establish guidelines for:

1. Permitting inmates to correspond with persons or entities outside the correctional facility;
2. Processing legal correspondence in correctional facilities;

3. Inmates sending and receiving publications;
4. Inmates sending and receiving packages;
5. Contact and non-contact visits with inmates;
6. Beside, private viewing and funeral visits by an inmate to a dying or deceased relative; and
7. Inmate access to and use of the telephone.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a)6, inserted ", private viewing".

10A:18-1.2 Scope

(a) N.J.A.C. 10A:18-1, 2, 3, 4, 6, 7 and 8 shall be applicable to State correctional facilities operated by the Department of Corrections and to inmates housed in facilities, other than county jails, in accordance with contractual agreements with the Department of Corrections unless otherwise indicated in this chapter.

(b) N.J.A.C. 10A:18-5 shall be applicable to State correctional facilities operated by the Department of Corrections.

(c) N.J.A.C. 10A:18-9 shall be applicable to inmates confined to the Adult Diagnostic and Treatment Center.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Substantially amended section.

Amended by R.1999 d.193, effective June 21, 1999.

See: 31 N.J.R. 918(a), 31 N.J.R. 1615(a).

Added (a) designation; and added (b) and (c).

Amended by R.1999 d.209, effective July 6, 1999.

See: 31 N.J.R. 833(a), 31 N.J.R. 1814(a).

Rewrote (a) and (b).

10A:18-1.3 Definitions

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

“Correspondence” means communication by the exchange of letters.

“Inmate Liaison Committee” means a group of inmate representatives, authorized by the correctional facility administration to act on behalf of the correctional facility inmates.

“Interoffice correspondence” means the exchange of correspondence between offices within the Department of Corrections.

“Legitimate public official” means the following:

1. An elected or appointed national, state or municipal government official; or
2. A director of a national, state or municipal government agency.

“News media representative” means a person whose principal employment is to gather or report news for:

1. A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of "general circulation" if it circulates among the general public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial or social affairs. A key test to determine whether a newspaper qualifies as a "general circulation" newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes;

2. A news magazine which has a national circulation and is sold by news-stands and by mail subscription to the general public;

3. A national or international news service; or

4. A radio or television news program, whose primary purpose is to report the news, of a station holding a Federal Communications Commission license.

"Pat-search" means a thorough search of a fully clothed person, including the clothing and personal property in the person's possession.

"Reasonable suspicion" means a belief that an action is necessary based upon specific and articulable facts that taken together with rational references from those facts, reasonably support a conclusion, such as, that a visitor is carrying or concealing contraband.

"Relative" means:

1. Father;
2. Mother;
3. Husband;
4. Wife;
5. Child;
6. Brother; or
7. Sister.

"Strip search" means a thorough and systematic examination of an unclothed person's body and orifices including visual inspection of external genital and anal areas, as well as the person's clothing and all personal items in possession of the person at the time.

"Truck mail" means interoffice mail that is exchanged between correctional facilities and mail that is exchanged between correctional facilities and the Department of Corrections' Central Office. Truck mail does not include mail sent by the United States Postal Service.

Amended by R.1991 d.413, effective August 5, 1991.
See: 23 N.J.R. 1758(a), 23 N.J.R. 2312(a).

Added definition of "Legitimate public official".
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Added "Reasonable suspicion"; amended "Inmate Liaison Committee", "Legal correspondence", "Legal material", "Strip search", and "Truck mail"; renamed "Inter-office correspondence" to read "Interoffice correspondence"; and renamed "Pat-frisk" to read "Pat search" and amended.

Amended by R.1998 d.364, effective July 20, 1998.

See: 30 N.J.R. 1367(b), 30 N.J.R. 2618(b).

Deleted "Legal correspondence" and "Legal material" definitions.
Petition for Rulemaking.

See: 33 N.J.R. 1478(a), 33 N.J.R. 1478(b).

Cross References

Identification of correspondence, see N.J.A.C. 10A:18-3.2, 10A:18-3.3.

Relatives, visitors, see N.J.A.C. 10A:18-6.3.

10A:18-1.4 Forms

(a) The following form related to Mail, Visits and Telephone shall be reproduced by each correctional facility from the original that is available by contacting the Standards Development Unit:

1. 292-I Request for Attorney-Client Contact Visit.

New Rule, R.1991 d.155, effective March 18, 1991.

See: 23 N.J.R. 14(a), 23 N.J.R. 859(c).

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

SUBCHAPTER 2. CORRESPONDENCE

10A:18-2.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of correspondence by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding correspondence shall be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding correspondence.

(d) New or revised rules and procedures regarding correspondence shall be incorporated into the next revision of the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.2 Limitation on number of correspondents

The number of approved correspondents and the amount of correspondence an inmate may receive or send shall be unlimited.

10A:18-2.3 Limitation on number of postage stamps

Each correctional facility shall establish a limit of stamps (40 or less) that inmates may possess that is consistent with the maintenance of security and the orderly operation of the correctional facility.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.4 Correspondence in language other than English

All State correctional facilities shall permit incoming and outgoing correspondence of the inmates to be in a language other than English.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.5 Correspondence to or from other inmates

(a) All inmate correspondence to or from other incarcerated inmates may be read to ensure that the correspondence does not contain any content prohibited by N.J.A.C. 10A:18-2.14.

(b) The Administrator/Administrative Unit Supervisor/Director or designee shall be authorized to limit inmate correspondence to or from other inmates for purposes of ensuring the safe, secure and orderly operation of the correctional facility or operational unit.

Amended by R.1989 d.318, effective June 19, 1989.
See: 21 N.J.R. 837(a), 21 N.J.R. 1701(a).

Deleted reference to correctional facilities "within this State" thus authorizing reading of materials coming or going, within or outside of New Jersey.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Amended by R.1999 d.209, effective July 6, 1999.
See: 31 N.J.R. 833(a), 31 N.J.R. 1814(a).

Rewrote the section.

10A:18-2.6 Inspection and identification of incoming correspondence

(a) Each piece of incoming correspondence shall be opened and inspected.

(b) The sender's name and address and the inmate's name and number should appear legibly on the outside of all incoming correspondence.

(c) The inmate's name and number shall appear on the outside of the incoming correspondence. Correspondence without either the inmate's name or number shall be returned to the sender.

(d) If either the sender's name or address does not appear but the inmate's name and number do appear on the outside of the incoming correspondence, the correspondence may be delivered to the inmate after the correspondence has been opened and inspected for contraband.

(e) When the inmate's name or number and the sender's name and address do not appear on the outside of the incoming correspondence, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(f) If it is necessary to return correspondence to a sender and the return address is incomplete, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(g) Incoming correspondence shall be opened and inspected for contraband, but it shall not be read unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 10A:18-2.14. If there is reason to believe that the correspondence contains disapproved content, the correspondence shall be read only upon prior authorization of the Superintendent or designee.

(h) A confidential list of the names of inmates whose incoming correspondence is authorized to be read shall be established and maintained in the correctional facility's Special Investigations Division or mail room, or wherever the confidentiality of the list can be maintained.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (b): changed "shall" to "should."

In (c): changed "and" to "or" regarding inmate's name "or" number. Added new (d) and (e) and recodified old (d)-(f) to new (f)-(h).

In (f): deleted text regarding the opening of inmate's correspondence and added language describing new procedures.

In (g): revised text to specify procedures on inspecting incoming correspondence.

In (h): added language "names of inmates whose" . . . and "authorized to be read"; changed "investigative unit" to "Internal Affairs Unit."

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (g), inserted "pursuant to N.J.A.C. 10A:18-2.14".
Administrative change.
See: 32 N.J.R. 303(a).

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

Regulations preventing inmates from sending mail to public officials, government agencies or media were unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Regulations regarding incoming correspondence to inmates from public officials, government agencies, or media were not unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

10A:18-2.7 Inspection of outgoing correspondence

(a) Outgoing correspondence shall be reviewed to determine the sender. If the sender of the correspondence cannot be identified, the correspondence shall be destroyed.

(b) Outgoing mail shall not be opened, read or censored if it is considered legal correspondence or if it is addressed to:

1. Public officials such as:
 - i. The President of the United States;
 - ii. The Vice-President of the United States;
 - iii. Members of Congress;
 - iv. The Governor;
 - v. Members of the State Legislature;
 - vi. Members of the County Board of Freeholders; or
 - vii. The Mayor;
2. Governmental agency officials, such as:
 - i. The Director of the Federal Bureau of Prisons;
 - ii. The Commissioner, New Jersey Department of Corrections;
 - iii. The Office of Ombudsman, New Jersey Department of Corrections;
 - iv. Members of the Federal Parole Board; or
 - v. Members of the State Parole Board; or
3. News media representatives.

(c) Outgoing mail from inmates to public officials, governmental agency officials and news media representatives may be held, for a maximum of 72 hours, in order to verify that the addressee is a legitimate public official, governmental agency official or news media representative.

(d) Any outgoing correspondence addressed to someone other than those cited in (b) above shall not be opened, read or censored unless there is reason to believe that the correspondence contains disapproved content (see N.J.A.C. 10A:18-2.14) and then only with the prior approval of the Superintendent or designee.

(e) Outgoing correspondence which is opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of all correspondence which is read pursuant to this subchapter shall be maintained in the Special Investigations Division of the correctional facility or mail room, or wherever the confidentiality of the list can be maintained.

Amended by R.1989 d.204, effective April 17, 1989.
See: 21 N.J.R. 277(a), 21 N.J.R. 1014(b).

New (b)1 through 5 added, U.S. President, V.P., Members of Congress, Members of Federal Parole Board and Director of the Federal Bureau of Prisons; 1.-4. recodified as 6.-9.

Amended by R.1990 d.564, effective November 19, 1990.

See: 21 N.J.R. 3913(a), 22 N.J.R. 3488(a).

Amended to comply with Matter of Inmate Mail to Attorneys, 232 N.J.Super. 478 (Super. Ct. App. 1989).

Amended by R.1991 d.413, effective August 5, 1991.

See: 23 N.J.R. 1758(a), 23 N.J.R. 2312(a).

Established maximum of 72 hours to hold outgoing mail to verify legitimacy of addressee.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted new (b)2iii; recodified former (b)2iii and iv as (b)2iv and v; and in (f), substituted "Internal Affairs Unit of the correctional facility" for "facility's investigative unit".

Administrative change.

See: 32 N.J.R. 303(a).

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

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Regulations regarding incoming correspondence to inmates from public officials, government agencies, or media were not unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

10A:18-2.8 Legal correspondence

Legal correspondence shall be processed in accordance with N.J.A.C. 10A:18-3, Legal Correspondence.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-2.9 Identification of sender of outgoing correspondence

(a) The inmate's name and number or the name of the inmate group shall appear legibly on the outside of all outgoing correspondence.

(b) If an inmate's name and number or the name of the inmate group does not appear on the outside of the correspondence, it shall be opened and examined to identify the sender so that the correspondence can be returned to the inmate or inmate group.

(c) If the inmate or inmate group cannot be identified, the correspondence shall be destroyed.

(d) The full name of the correctional facility shall be clearly stamped or printed in the upper left corner of all outgoing envelopes from inmates or inmate groups.

Amended by R.1992 d.3, effective January 6, 1992.

See: 23 N.J.R. 2468(a), 24 N.J.R. 107(a).

Added (d).

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted reference to inmate group throughout.

10A:18-2.10 (Reserved)

Repealed by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Section was "Telegrams and mailgrams".

10A:18-2.11 Registered, certified or special delivery mail

(a) All registered, certified or special delivery correspondence of a non-legal nature shall be processed as regular mail provided the mail room signs to acknowledge receipt of the correspondence. The inmate shall be required to sign an acknowledgment that he or she received the correspondence.

(b) In instances where the mail room does not sign for registered, certified or special delivery correspondence of a non-legal nature, the inmate shall be required to sign for the correspondence to acknowledge receipt.

10A:18-2.12 Correspondence processing

(a) Properly identified incoming correspondence (see N.J.A.C. 10A:18-2.6) shall be distributed to inmates, and outgoing properly identified correspondence (see N.J.A.C. 10A:18-2.9) shall be sent to the post office within one day of receipt in the mail room, excluding weekends, holidays and during emergency incidents.

(b) Inmates shall not be involved in the processing of either incoming or outgoing correspondence.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), inserted reference to emergency incidents.

Petition for Rulemaking.

See: 33 N.J.R. 2221(a).

10A:18-2.13 Receipt of funds

(a) Money orders and certified checks shall be the only approved form of money received through the mail which can be accepted by the correctional facility for deposit in an inmate's account.

(b) When an inmate receives money orders or certified checks by mail, the inmate shall be given a receipt and the funds shall be deposited into the inmate's account.

(c) All cash and personal checks sent through the mail to an inmate shall be deemed contraband and processed in accordance with N.J.A.C. 10A:3-6.6.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a) and (b), substituted reference to certified checks for reference to checks other than personal checks and cash; and in (c), amended N.J.A.C. reference.

10A:18-2.14 Disapproved correspondence

(a) Any correspondence for an inmate may be withheld in the mail room or taken from an inmate's possession if it falls within one of the following categories:

1. The correspondence contains material which is detrimental to the security and/or order of the correctional facility because it incites violence based upon race, religion, creed or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the facility:
2. The correspondence contains information regarding:
 - i. The manufacture of explosives;
 - ii. The manufacture of weapons;
 - iii. The manufacture of controlled dangerous substances;
 - iv. Escape plans;
 - v. Lockpicking or locking devices; or
 - vi. Anything that might pose a threat to the security or orderly operation of the correctional facility.
3. The correspondence contains information which appears to be written in code;
4. The correspondence contains information concerning activities within or outside the correctional facility which would be subject to criminal prosecution under the law of New Jersey or the United States;
5. The correspondence incites violence or destructive or disruptive behavior toward:
 - i. Law enforcement officers;
 - ii. Department of Corrections or contract vendor personnel;
 - iii. Correctional facility inmates, visitors and/or volunteers; or
 - iv. Correctional facility programs or procedures.
6. The correspondence contains material which, based upon the experience and professional expertise of correctional administrators and judged in the context of a correctional facility and its paramount interest in security, order and rehabilitation:

i. Taken as a whole, appeals to a prurient interest in sex;

ii. Lacks, as a whole, serious literary, artistic, political or scientific value; and

iii. Depicts, in a patently offensive way, sexual conduct including patently offensive representations or descriptions of ultimate sexual acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism or masochism.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a)2, deleted "the manufacture of"; in (a)2i through iii, amended to reflect application to the manufacture of the subject matter; in (a)2v, inserted reference to locking devices; in (a)2vi, substituted "that might pose a threat . . . correctional facility" for "of a similar nature"; in (a)5ii, inserted "or contract vendor"; inserted new (a)5iii; and recodified former (a)5iii as (a)5iv.

Cross References

Inmate to inmate correspondence, see N.J.A.C. 10A:18-2.5.

10A:18-2.15 Control of correspondence

(a) Incoming correspondence which is withheld from an inmate shall be returned to the sender, together with a notice that the material has been found to violate the Department of Corrections' rules governing correspondence.

(b) If the correspondence is withheld pursuant to N.J.A.C. 10A:18-2.14(a)4 for containing information which would be subject to criminal prosecution under the laws of New Jersey or the United States, the correspondence shall be turned over to the Special Investigations Division or Control Unit of the correctional facility for further action.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Deleted (c) and (d).
Administrative change.
See: 32 N.J.R. 303(a).

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials, or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-2.16 Procedures for handling withheld correspondence

(a) When correspondence violates one of the categories cited in N.J.A.C. 10A:18-2.14 and is withheld in the mail room, the following action shall be taken.

1. The correction officer who withholds the correspondence must submit a written report, no later than the end of the shift to the shift supervisor identifying:
 - i. The correspondence withheld;
 - ii. The inmate's name and number to whom it was addressed;
 - iii. The time and date of withholding; and
 - iv. The category which the correspondence violates.

2. The decision of the correction officer shall be reviewed by the shift supervisor.

3. The correspondence shall be given to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.

4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the determination.

5. The correction officer shall provide the sender, within 72 hours of the withholding, with a written notice which identifies:

- i. The correspondence withheld;
- ii. The reason for withholding the correspondence; and
- iii. The right of the sender to appeal this decision within 10 days of the date of the notice.

6. The correction officer shall provide the inmate, within 72 hours of the withholding, with a written notice that correspondence has been withheld. The notice must contain:

- i. Name of the sender;
- ii. Date of the correspondence;
- iii. Date of the withholding; and
- iv. A statement that the sender has been notified of the withholding and of the right to appeal.

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials, or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-2.17 Procedure for handling correspondence removed from the inmate's possession

(a) When correspondence violates one of the categories cited in N.J.A.C. 10A:18-2.14 and is removed from the inmate's possession, the following action shall be taken.

1. The correction officer who removes the correspondence from the inmate must submit a written report no later than the end of the shift to the shift supervisor identifying:
 - i. The correspondence removed;
 - ii. The inmate's name and number from whom it was removed;
 - iii. The time and date of removal; and
 - iv. The category which the correspondence violates.
2. The decision of the correction officer shall be reviewed by the shift supervisor.

3. The correspondence shall be returned to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.

4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the determination.

5. The correction officer shall provide the inmate, within 72 hours of the removal, with a written notice which identifies:

- i. The correspondence removed;
- ii. The reason for removing it; and
- iii. The inmate's right to appeal the removal.

10A:18-2.18 Appeal and final disposition

(a) When correspondence has been withheld in the mail room or when correspondence has been removed from the inmate's possession, the sender or inmate may appeal the action of the shift supervisor to the Superintendent within 10 days of the date of notice.

(b) The sender or inmate shall be permitted to submit documents in writing to the Superintendent that the challenged correspondence does not violate the category indicated in the correction officer's report.

(c) The Superintendent or designee, whose title shall not be lower than Assistant Superintendent or Director of Custody Operations, shall consider the appeal.

(d) The Superintendent or designee shall issue a written decision on the appeal and shall respond to the sender or inmate, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the correspondence from the inmate, the decision shall contain a specific finding that the correspondence violates the category indicated in the correction officer's report.

(e) If a correspondence is found to be objectionable only in part and such part is easily separable from the rest of the correspondence, the sender or inmate, as appropriate, shall be given the choice of whether to allow the correctional facility to excise the offending portions or to forfeit the inmate's right to the correspondence.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.19 Forwarding correspondence to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying correspondents of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all incoming correspondence to the correctional facility to which the inmate has been transferred.

(c) Any correspondence received after the three month period shall be returned to the sender. If the sender cannot be identified, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (c): added language regarding procedures for marking correspondence and returning it unopened.
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.20 Forwarding correspondence to an inmate released on parole or at expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether correspondence received at the correctional facility should be forwarded to the inmate.

(c) Upon the inmate's request, the correctional facility shall forward the correspondence.

(d) The correctional facility shall not forward certified or registered mail, but shall return it to the sender.

(e) Correspondence shall be forwarded for a maximum of three months from the date of the inmate's release. Correspondence received thereafter shall be returned to the sender. If the sender cannot be identified, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (e): added language describing the procedures for marking correspondence and returning it unopened.
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.21 Forwarding correspondence to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, correspondence received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding an inmate's correspondence when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes correspondence forwarded.

10A:18-2.22 Forwarding correspondence of an inmate who has escaped

(a) All incoming correspondence addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the incoming mail does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified, the correspondence shall be resealed and returned to the United States Postal Service.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (c): deleted "destroyed" and added "resealed . . . Office."
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.23 Correspondence to and from illiterate inmates

(a) If an inmate is unable to read or write, the social worker assigned to the inmate's housing unit shall, upon request, assist the inmate in maintaining community ties by:

1. Writing a letter as dictated by the inmate; and
2. Reading incoming correspondence to the inmate.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-2.24 Cost of mailing correspondence for nonindigent inmates

(a) If a nonindigent inmate has funds in his or her account, the nonindigent inmate shall be charged for the cost of mailing correspondence.

(b) If the nonindigent inmate has temporarily overdrawn the account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the correspondence, the correctional facility shall:

1. Ensure that the correspondence is mailed via First Class or standard mail whichever costs less;
2. Remove from the nonindigent inmate's account the amount available in accordance with (c) below;
3. Charge the nonindigent inmate's account the amount owed the correctional facility; and
4. Advise the nonindigent inmate in writing of the amount owed and the reason therefor.

(c) Until the correctional facility has been reimbursed in full for the cost of mailing correspondence via First Class or standard mail whichever is lower, the Business Manager or designee shall:

1. Remove from the nonindigent inmate's account any amount of funds in excess of the one time monthly amount of \$15.00 for reimbursement for the full cost of mailing correspondence in accordance with N.J.A.C. 10A:2-2;
2. Note in the nonindigent inmate's account each removal of funds from an inmate's account;
3. Provide to the nonindigent inmate a monthly account statement to include each removal of funds for the cost of mailing correspondence from the nonindigent inmate's account; and
4. Reimburse to the correctional facility the funds collected from the inmate for the cost of mailing correspondence. Reimbursements shall be made in accordance with applicable State and Departmental internal management policies.

(d) In the event a nonindigent inmate is transferred to another correctional facility within the Department of Corrections, the Business Manager or designee of the sending correctional facility shall notify the Business Manager of the receiving correctional facility in writing of the remaining amount due the sending correctional facility for mailing correspondence. The notification shall also request that funds continue to be removed from the nonindigent inmate's account until reimbursement has been made in full. The receiving correctional facility shall issue a check for the funds collected from the inmate and forward the check to the sending correctional facility.

(e) Whenever a nonindigent inmate's account exceeds a negative balance of \$25.00, the Superintendent or designee shall be notified.

(f) Mailing costs are regarded as collectable if a nonindigent inmate is paroled or released prior to making full reimbursement of funds owed for correspondence mailing costs.

(g) The Business Manager or designee shall notify in writing the Central Office Revenue Unit (CORU) of the remaining amount due the correctional facility. The CORU shall take whatever action is possible to collect the mailing costs due and forward same to the correctional facility.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted nonindigent references throughout and substantially amended.

10A:18-2.25 Cost of mailing correspondence by indigent inmates

(a) For indigent inmates, the correctional facility shall provide letter writing materials and shall assume the cost of mailing not more than 12 letters per month so that the indigent inmate as defined in N.J.A.C. 10A:1-2.2 can maintain community ties with family and personal friends.

(b) The correctional facility shall only assume the cost of First Class or standard postage and shall not assume the cost of postage on:

1. Registered mail;
2. Certified mail; or
3. Insured mail.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), inserted "For indigent inmates," and substituted N.J.A.C. reference for description of indigency; and in (b), inserted reference to standard postage.

10A:18-2.26 Inmate use of interoffice correspondence

(a) Inmates shall not be permitted to use either the pink or the blue and white interoffice envelopes which are purchased for use by State employees.

(b) Inmates using or possessing State interoffice envelopes shall be charged with Prohibited Act .210—possession of anything not authorized for retention or receipt by an inmate or not issued through regular correctional facility channels (See N.J.A.C. 10A:4-4.1).

(c) In instances where a correctional facility provides envelopes to inmate groups, plain white envelopes shall be provided.

(d) Inmates corresponding with Department Central Office staff, or with staff at other correctional facilities, or with the State Parole Board, shall be permitted to use the facility's "truck mail" delivery service, but the inmates must use their own envelopes and mark the envelopes "INTER-OFFICE" or "TRUCK MAIL."

(e) Inmates shall not be permitted to use the "truck mail" delivery services to correspond with persons in other State Departments or Agencies or with inmates in other correctional facilities. Inmates attempting to do so shall be charged with Prohibited Act .709—failure to comply with a written rule or regulation of the correctional facility (See N.J.A.C. 10A:4-4.1).

(f) Except as described in (d) above, all outgoing correspondence shall be sent through First Class or standard mail at the inmate's expense.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (f), inserted reference to standard postage.

SUBCHAPTER 3. LEGAL CORRESPONDENCE

10A:18-3.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of legal correspondence by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding legal correspondence shall also be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding legal correspondence.

(d) New or revised rules and procedures regarding legal correspondence shall be incorporated into the next revision of the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-3.2 Identification of outgoing legal correspondence

(a) All outgoing legal correspondence shall be clearly marked with the inmate's name and number on the envelope.

(b) An inmate who is sending legal correspondence out of the correctional facility shall be responsible for clearly marking "legal mail" on the front and back of the envelope.

(c) The absence of the "legal mail" designation shall not mean that the correspondence may be treated as non-legal correspondence if the address on the envelope clearly indicates that it is being sent to a legal correspondent as enumerated in N.J.A.C. 10A:18-1.3.

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J. Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-3.3 Identification of incoming legal correspondence

(a) The return address on the outside of an envelope should clearly indicate that the correspondence is being sent from a legal correspondent as enumerated in N.J.A.C. 10A:18-1.3.

(b) Mail sent from a legal correspondent shall be considered legal correspondence and shall be handled in accordance with this subchapter.

(c) The absence of a particular name of an attorney or judge shall not preclude the correspondence from being treated as legal correspondence if the return address indicates an office or court as enumerated in N.J.A.C. 10A:18-1.3.

10A:18-3.4 Inspection of incoming legal correspondence

(a) Incoming legal correspondence shall be opened and inspected for contraband only.

(b) Incoming legal correspondence shall not be read or copied. The content of the envelope may be removed and shaken loose to ensure that no contraband is included. After the envelope has been inspected the correspondence shall be given to the inmate.

(c) The correctional facility may require that the inmate sign a slip acknowledging receipt of the incoming legal correspondence.

(d) Where there is substantial reason to believe that the incoming correspondence is not legal in nature or that it contains disapproved content pursuant to N.J.A.C. 10A:18-2.14, the Superintendent shall immediately notify the appropriate Assistant Commissioner. The incoming legal correspondence shall not be inspected in a manner other than as outlined in this subchapter without first obtaining instructions from the appropriate Assistant Commissioner.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (e), amended notification requirements.

Special amendment, R.2001 d.426, effective October 19, 2001.

See: 33 N.J.R. 4033(a).

Deleted former (b) and recodified former (c) through (e) as (b) through (d).

Case Notes

Prison official entitled to qualified immunity; claim that First Amendment right to access to courts was violated when official read

inmate's legal mail during search for contraband. *Jordan v. New Jersey Dept. of Corrections*, D.N.J.1995, 881 F.Supp. 947.

Regulations preventing inmates from sending mail to public officials, government agencies or media were unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Regulations regarding incoming correspondence to inmates from public officials, government agencies, or media were not unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J. Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-3.5 Certified or registered mail

(a) Legal correspondence need not be sent by certified or registered mail.

(b) If an inmate has sufficient funds in his or her account to cover the costs of mailing and the inmate prefers to use certified or registered mail, the inmate shall be permitted to do so.

(c) The correctional facility shall not send the legal correspondence of indigent inmates via certified or registered mail.

10A:18-3.6 Proof of service

Inmates who have insufficient funds to send legal correspondence as certified or registered mail and who are concerned that they have no proof of service where regular mail is employed, shall be advised that under the rules of court, an affidavit of service filed with the clerk of the court shall be sufficient proof of service.

10A:18-3.7 Cost of mailing legal correspondence for nonindigent inmates

(a) If a nonindigent inmate has funds in his or her account, the nonindigent inmate shall be charged for the total cost of mailing legal correspondence.

(b) If the nonindigent inmate has temporarily overdrawn his or her account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the legal correspondence, the cost of mailing shall be handled in accordance with N.J.A.C. 10A:18-2.24.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted nonindigent references and substituted N.J.A.C. reference for specific handling instructions.

10A:18-3.8 Cost of mailing legal correspondence by indigent inmates

(a) The correctional facility shall provide letter writing materials and shall assume the cost of mailing legal correspondence for indigent inmates as defined in N.J.A.C. 10A:1-2.2.

(b) The cost of mailing legal correspondence shall extend only to First Class or standard postage and shall not include:

1. Registered mail;
2. Certified mail; or
3. Insured mail.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), substituted N.J.A.C. reference for specific handling instructions; in (b), inserted reference to standard postage; and deleted (c), relating to status as indigent upon receiving job offer at facility.

10A:18-3.9 Forwarding legal correspondence to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying his or her correspondents of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all regular incoming legal correspondence to the correctional facility to which the inmate has been transferred.

(c) Any legal correspondence received after the three month period shall be returned to the sender.

10A:18-3.10 Forwarding legal correspondence to an inmate released on parole or released after expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether legal correspondence received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the legal correspondence to him or her.

(d) The correctional facility shall not forward certified or registered mail, but shall return it to the sender.

(e) Legal correspondence shall be forwarded for a maximum of three months from the date of the inmate's release. Legal correspondence received thereafter shall be returned to the sender.

10A:18-3.11 Forwarding legal correspondence to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, legal correspondence received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding an inmate's legal correspondence when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes the legal correspondence forwarded.

10A:18-3.12 Forwarding legal correspondence of an inmate who has escaped

(a) All incoming legal correspondence addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the incoming legal correspondence does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified, the correspondence shall be destroyed.

10A:18-3.13 (Reserved)

Repealed by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Section was "Inmate use of inter-office correspondence".

SUBCHAPTER 4. PUBLICATIONS**10A:18-4.1 Notice to inmates**

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of publications by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding publications shall be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding publications.

(d) New or revised rules and procedures regarding publications shall be incorporated into the next revision of the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-4.2 Limitation on source of publications

(a) Inmates shall be permitted to receive hardcover books, paperback books, magazines and other softcover publications from the publisher or source of sale only.

(b) Inmates shall be permitted to receive newspapers only by subscription mailed directly from the publisher.

(c) There shall be no restriction on the number of publications an inmate may receive.

(d) All books, magazines, publications and newspapers must be prepaid.

Amended by R.1999 d.209, effective July 6, 1999.
See: 31 N.J.R. 833(a), 31 N.J.R. 1814(a).

Rewrote (a); deleted a former (b); recodified former (c) through (e) as (b) through (d); and in the new (d), deleted "by the inmate" at the end.

10A:18-4.3 Publications in a language other than English

All State correctional facilities shall permit incoming publications in a language other than English.

10A:18-4.4 (Reserved)

Amended by R.1989 d.318, effective June 19, 1989.
See: 21 N.J.R. 837(a), 21 N.J.R. 1701(a).

Deleted reference to correctional facilities "within the State" thus authorizing reading of publications to or from inmates from other states.

Repealed by R.1999 d.209, effective July 6, 1999.
See: 31 N.J.R. 833(a), 31 N.J.R. 1814(a).

Section was "Publications to or from other inmates".

10A:18-4.5 Inspection of incoming publications

(a) Each incoming publication shall be opened and inspected for contraband, but shall not be read unless there is reason to believe that the publication contains disapproved content (see N.J.A.C. 10A:18-4.9) and then only upon the prior authorization of the Superintendent or designee.

(b) A confidential list of the incoming publications that are read shall be maintained in the Special Investigations Division or mail room of the correctional facility, or wherever the confidentiality of the list can be maintained.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).
Administrative change.
See: 32 N.J.R. 303(a).

10A:18-4.6 Identification of incoming publications

(a) The sender's name and address and the inmate's name and number shall appear legibly on the outside of all incoming publications.

(b) The inmate's name and number shall appear on the outside of the incoming publication. Publications without

both the inmate's name and number shall be returned to sender.

(c) If the sender's name and address do not appear on the outside of the publication, the publication shall be opened and examined to determine the identity of the sender.

(d) If the sender cannot be identified, the publication shall be destroyed.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

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

10A:18-4.7 Inspection and identification of outgoing publications

(a) Outgoing publications shall be reviewed to determine the sender.

(b) The inmate's name and number or the name of the inmate group shall appear legibly on the outside of the publication.

(c) If both the name and number of the sender do not appear on the outside of the outgoing publication, it shall be opened and examined to determine the sender so that it can be returned to the inmate or inmate group. If the sender cannot be identified, the outgoing publication shall be destroyed.

(d) Except as stated in (c) above, outgoing publications shall not be opened, read or censored unless there is reason to believe that the publication contains disapproved content (see N.J.A.C. 10A:18-4.9) and then only with the prior approval of the Superintendent or designee.

(e) Outgoing publications which are opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of the outgoing publications that are read pursuant to this subchapter shall be maintained in the investigative unit or mail room of the correctional facility, or wherever the confidentiality of the list can be maintained.

Amended by R.1989 d.203, effective April 17, 1989.
See: 21 N.J.R. 277(b), 21 N.J.R. 1014(c).

At (d) deleted reference to specific government official addressees; recodified (e) to (d) deleting reference to old (d).

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (c), inserted provision relating to unidentified senders; and in (d), inserted "Except as stated in (c) above,".

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J. Super.

478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-4.8 Processing of publications

(a) All properly identified and inspected incoming publications (see N.J.A.C. 10A:18-4.5 and N.J.A.C. 10A:18-4.6) shall be distributed to inmates within one day of their receipt in the mail room, excluding weekends, holidays and during emergency incidents.

(b) All properly identified outgoing publications (see N.J.A.C. 10A:18-4.7) shall be sent to the post office within one day of their receipt in the mail room, excluding weekends, holidays and during emergency incidents.

(c) Inmates shall not participate in the processing of either incoming or outgoing publications.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a) and (b), inserted reference to emergency incidents.

10A:18-4.9 Disapproved content in publications

(a) Any incoming publication may be withheld in the mail room or taken from an inmate's possession if it falls within one of the following categories:

1. The publication contains material that is detrimental to security and/or order of the correctional facility because it incites violence based upon race, religion, creed or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the facility;

2. The publication contains information regarding:

- i. Explosives;
- ii. Weapons;
- iii. Controlled dangerous substances;
- iv. Escape plans;
- v. Lockpicking and/or locking devices; or
- vi. Anything that might pose a threat to the security or orderly operation of the correctional facility.

3. The publication contains information which appears to be written in code;

4. The publication contains information concerning activities, within or outside the correctional facility, which would be subject to criminal prosecution under the laws of New Jersey or the United States;

5. The publication incites violence, or destructive or disruptive behavior toward:

- i. Law enforcement officers;
- ii. Department of Corrections personnel; or

iii. Correctional facility inmates, visitors and/or volunteers; or

iv. Correctional facility programs or procedures.

6. The publication contains material which, based upon the experience and professional expertise of correctional administrators and judged in the context of a correctional facility and its paramount interest in security, order and rehabilitation:

i. Taken, as a whole, appeals to a prurient interest in sex;

ii. Lacks, as a whole, serious literary, artistic, political or scientific value; and

iii. Depicts, in a patently offensive way, sexual conduct including patently offensive representations or descriptions of ultimate sex acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism or masochism.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a)2v, inserted reference to locking devices; in (a)2vi, substituted "that might pose . . . facility" for "of a similar nature"; added (a)5iii; and recodified former (a)5iii as (a)5iv.

Cross References

Approval of publications, see N.J.A.C. 10A:17-8.11.

Law Review and Journal Commentaries

ACLU Plans Suit to Challenge Prison Censorship. Hanna W. Rosin, 132 N.J.L.J. No. 13, 3 (1992).

10A:18-4.10 Control of publications

(a) Publications which are withheld from an inmate shall be disposed of in a manner determined by the inmate and at his or her expense.

(b) If the publication is withheld pursuant to N.J.A.C. 10A:18-4.9, it shall be turned over to the correctional facility Special Investigations Division or Central Control for further action.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b), amended N.J.A.C. reference; and deleted (c) and (d).
Administrative change.
See: 32 N.J.R. 303(a).

10A:18-4.11 Procedure for handling withheld publications

(a) When a publication violates one of the categories cited in N.J.A.C. 10A:18-4.10 and is withheld in the mail room, the following action shall be taken:

1. The correction officer who withholds the publication must submit a written report, no later than the end of the shift to the shift supervisor identifying:

- i. The publication withheld;

ii. The inmate's name and number to whom it was addressed;

iii. The time and date of withholding; and

iv. The category which the publication violates.



2. The decision of the correction officer shall be reviewed by the shift supervisor.

3. The publication shall be given to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.

4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the correction officer's determination.

5. The correction officer shall provide the sender, within 72 hours of the withholding, with a written notice which identifies:

- i. The publication withheld;
- ii. The reason for withholding the publication; and
- iii. The right of the sender to appeal this decision within 10 days of the date of the notice.

6. The correction officer shall provide the inmate, within 72 hours of the withholding, with a written notice that the publication has been withheld. The notice must contain:

- i. Name of the publication;
- ii. Date of the publication;
- iii. Date of the withholding; and
- iv. A statement that the sender has been notified of the withholding and of the right to appeal.

10A:18-4.12 Procedure for handling publications removed from inmate's possession

(a) When a publication violates one of the categories cited in N.J.A.C. 10A:18-4.10 and is removed from the inmate's possession, the following action shall be taken:

1. The correction officer who removes the publication from the inmate must submit a written report, no later than the end of the shift to the shift supervisor identifying:

- i. The publication removed;
- ii. The inmate's name and number from whom it was removed;
- iii. The time and date of the removal; and
- iv. The category which the publication violates.

2. The decision of the correction officer shall be reviewed by the shift supervisor.

3. The publication shall be returned to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.

4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the correction officer's determination.

5. The correction officer shall provide the inmate, within 72 hours of the removal, with a written notice which identifies:

- i. The publication removed;
- ii. The reason for removing the publication; and
- iii. The inmate's right to appeal the removal.

10A:18-4.13 Appeal and final disposition

(a) When a publication has been withheld in the mail room or when a publication has been removed from the inmate's possession, the sender or inmate may appeal the action of the shift supervisor to the Superintendent within 10 days of the date of the notice.

(b) The sender or inmate shall be permitted to submit arguments, in writing to the Superintendent, that the challenged publication does not violate the category indicated in the correction officer's report.

(c) The Superintendent or designee, whose title shall not be lower than Assistant Superintendent or Director of Custody Operations, shall consider the appeal.

(d) The Superintendent or designee shall issue a written decision on the appeal and respond to the sender or inmate, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the publication from the inmate, the decision shall contain a specific finding that the publication violates the category indicated in the correction officer's report and a notification that the publication is being returned to the sender.

(e) If a publication is found to be objectionable only in part and such part is easily separable from the rest of the publication (such as a magazine article, etc.) the inmate shall be given the choice of whether to allow the correctional facility to excise the offending portion(s) or to forfeit his or her right to the publication.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b), substituted "submit arguments" for "argue".

10A:18-4.14 Forwarding publications to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying the publishers of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all publications to the correctional facility to which the inmate has been transferred.

(c) Any publications received after the three month period may be destroyed or placed in the library of the correctional facility from which the inmate was transferred.

10A:18-4.15 Forwarding publications to an inmate released on parole or at expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether publications received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the publications to him or her.

(d) Publications shall be forwarded for a maximum of three months from the date of the inmate's release. Publications received thereafter may be destroyed or placed in the library of the correctional facility.

10A:18-4.16 Forwarding publications to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, publications received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding an inmate's publications when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes publications forwarded.

10A:18-4.17 Return of publications addressed to an inmate who has escaped

(a) All publications addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the publication does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified, the publication may be destroyed or placed in the library of the correctional facility.

(b) Notice of new or revised rules and procedures regarding packages shall be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding packages.

(d) New or revised rules and procedures regarding packages shall be incorporated into the next revision of the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-5.2 Limitations on packages

(a) Each correctional facility Administrator or designee shall promulgate:

1. Internal management procedures written in accordance with this section that include a written list of items which may be received in a package; and
2. A limit on the number and weight of packages which may be received by an inmate each month.

(b) Each inmate shall be given written notice of package limitations as established in this section.

(c) Inmates shall not be permitted to receive packages except from source of sale.

(d) All packages must be prepaid.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (c), substituted "source of sale" for "a retail store"; and deleted a former (d).

Amended by R.1998 d.301, effective June 15, 1998 (operative October 19, 1998).

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c), 30 N.J.R. 2209(a).

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

Petition for Rulemaking.

See: 31 N.J.R. 559(a).

Amended by R.1999 d.209, effective July 6, 1999.

See: 31 N.J.R. 833(a), 31 N.J.R. 1814(a).

In (a), inserted "Administrator or designee" in the introductory paragraph, and rewrote 1; in (b), substituted "in this section" for "by (a) above" at the end; and in (d), deleted "received from source of sale" following "packages".

Case Notes

Prison clothing regulation precluding inmates from wearing symbols or indicia of group membership or rank and precluding inmate from wearing dashiki was not illegal. *Lumumba v. Morton*, 280 N.J.Super. 400, 655 A.2d 487 (A.D.1995).

10A:18-5.3 Inspection of incoming packages

(a) Every incoming package shall be opened and searched for contraband except as established in (c) below.

SUBCHAPTER 5. PACKAGES

10A:18-5.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of packages by the posting of appropriate notices in each housing area and other areas of the correctional facility.

(b) Any item of contraband which is found during a search shall be processed in accordance with N.J.A.C. 10A:3-6.

(c) Any package(s) received from a source other than source of sale shall be marked "Refused" and returned to the sender unopened if the sender can be identified.

Amended by R.1998 d.301, effective June 15, 1998 (operative October 19, 1998).

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c), 30 N.J.R. 2209(a).

Added (c).

Amended by R.1999 d.209, effective July 6, 1999.

See: 31 N.J.R. 833(a), 31 N.J.R. 1814(a).

In (a), added an exception at the end; and in (c), added "if the sender can be identified" at the end.

10A:18-5.4 Identification of incoming mailed packages

(a) Every incoming package shall be clearly marked with the name and address of the source of sale and the inmate's name and number.

(b) The inmate's name and number or the name of the inmate group shall appear on the outside of the incoming mailed package. Packages without both the inmate's name and number or the name of the inmate group shall be returned to the sender.

(c) If the name and address of the sender or source of sale does not appear on the outside of the incoming mailed package, it shall be examined to identify the sender or source of sale when it is opened. (See N.J.A.C. 10A:18-5.3.)

(d) If the sender or source of sale of an incoming mailed package cannot be identified, the content of the package shall be destroyed.

Recodified from 10A:18-5.5 and amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted references to source of sale throughout; in (b), inserted references to inmate group. Former section "Inspection and identification of outgoing packages" repealed.

Amended by R.1998 d.301, effective June 15, 1998 (operative October 19, 1998).

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c), 30 N.J.R. 2209(a).

In (a), deleted a reference to sender; in (b), deleted a reference to source of sale.

10A:18-5.5 Inspection and identification of outgoing packages

(a) Every outgoing package shall be opened and inspected.

(b) Every outgoing package shall be clearly marked with the inmate's name and number or the name of the inmate group on the outside of the package.

(c) If either the inmate's name or number or the name of the inmate group does not appear on the outside of the outgoing package, when opened for inspection, it shall be

examined to identify the sender so that it can be returned to the inmate or inmate group for proper mailing.

(d) If the sender of an outgoing package cannot be identified, the content of the package shall be destroyed.

(e) The content of outgoing packages shall be limited to inmate personal property.

(f) Any item of contraband which is found during an inspection of outgoing packages shall be processed in accordance with N.J.A.C. 10A:3-6.

New Rule, R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-5.6 Package processing

(a) All properly identified incoming packages (see N.J.A.C. 10A:18-5.5) shall be distributed to inmates as soon as possible to avoid spoilage of perishable items.

(b) All properly identified outgoing packages (see N.J.A.C. 10A:18-5.4) shall be sent to the post office within one day of their receipt in the mail room excluding weekends, holidays and during emergency incidents.

(c) Inmates shall not be involved in the processing of either incoming or outgoing packages.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b), inserted reference to emergency incidents.

10A:18-5.7 Forwarding packages to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying his or her correspondents of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all packages to the correctional facility to which the inmate has been transferred.

(c) Any packages received after the three month period shall be returned to the sender, if possible, or destroyed.

10A:18-5.8 Forwarding packages to an inmate released on parole or at expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether packages received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the packages to him or her.

(d) Packages shall be forwarded for a maximum of three months from the date of the inmate's release. Packages received thereafter shall be returned to the sender, if possible, or destroyed.

10A:18-5.9 Forwarding packages to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, packages received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding packages to an inmate when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes packages forwarded.

10A:18-5.10 Forwarding packages of an inmate who has escaped

(a) All incoming packages addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the package does not have a return address, the package shall be opened to determine the sender.

(c) If the sender cannot be identified, the package shall be destroyed.

SUBCHAPTER 6. VISITS

10A:18-6.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding visits by posting appropriate notices in each housing area and other appropriate areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding visits shall be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding visits.

(d) New or revised rules and procedures regarding visits shall be incorporated into the next revision of the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-6.2 List of visitors

Upon admission, an inmate shall submit to a person as designated by the Superintendent a list of names and addresses of potential visitors.

10A:18-6.3 Approval of potential visitors

(a) The correctional facility Superintendent or designee may approve the following persons to visit an inmate:

1. Relatives (see N.J.A.C. 10A:18-1.3);
2. Close friends;
3. Clergy; and
4. Persons who may have a constructive influence on the inmate.

(b) Persons with criminal records shall not be automatically excluded from visiting an inmate. The nature and extent of an individual's criminal record, plus their history of recent criminal activity, shall be weighed against the benefits of visitation in determining visitation eligibility.

(c) Persons determined, by substantial evidence, to have a harmful influence upon the inmate or to constitute a threat to the security of the correctional facility shall not be granted visitation privileges.

(d) At the Superintendent's discretion, former employees of the Department of Corrections may be permitted to visit an inmate. The Superintendent's decision shall be made on a case-by-case basis after due consideration of the security interests involved, and after the Superintendent is satisfied that the visit will not pose a threat to the orderly operation of the correctional facility.

(e) Employees of the Department of Corrections who have relatives incarcerated in facilities under the jurisdiction of the New Jersey Department of Corrections shall be permitted to visit an inmate in accordance with N.J.A.C. 10A:18-6.4.

(f) Approval of special visits shall be in accordance with N.J.A.C. 10A:18-6.5.

(g) Approval of visits between incarcerated family members shall be in accordance with N.J.A.C. 10A:18-6.6.

(h) Approval of visits by attorneys and court related persons shall be in accordance with N.J.A.C. 10A:18-6.7.

(i) Approval of visits by children shall be in accordance with N.J.A.C. 10A:18-6.8.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), inserted "Superintendent or designee".

10A:18-6.4 Employee visits with incarcerated relatives

(a) Employees of the Department of Corrections who have relatives incarcerated in facilities under the jurisdiction of the New Jersey Department of Corrections shall be permitted to visit an incarcerated relative provided the Superintendent is satisfied that there is no threat to the orderly operation of the correctional facility.

(b) For the purpose of this subchapter, "relative" (see N.J.A.C. 10A:18-1.3) shall also include:

1. Grandparents;
2. Cousins;
3. Uncles; and
4. Aunts.

(c) An employee of the Department of Corrections who wishes to visit a relative incarcerated in a correctional facility under the jurisdiction of the New Jersey Department of Corrections shall submit a written request for permission to visit the incarcerated relative to the Superintendent of the correctional facility at which the relative is housed.

(d) The Superintendent may schedule the visit during regular visiting hours or at special times, according to the orderly administration and staffing of the correctional facility.

Amended by R.1990 d.124, effective February 20, 1990.
See: 21 N.J.R. 3410(a), 22 N.J.R. 662(a).

At (c), clarified the requirement of submitting a written request and deleted (e).
Petition for Rulemaking.
See: 33 N.J.R. 1478(b).

10A:18-6.5 Special visits

(a) Special visits may be authorized by the correctional facility Superintendent or designee. Special visits include:

1. Visits from persons who have come long distances;
2. Visits to hospitalized inmates;
3. Visits to inmates in disciplinary status; and
4. Visits between inmates and:
 - i. Members of the clergy;
 - ii. Social service agency representatives;
 - iii. Prospective employers;
 - iv. Sponsors; and
 - v. Parole advisors.

(b) The Superintendent or designee may approve or disapprove a visit from a visitor who accompanies a person on the approved list.

(c) Close Custody visits shall be governed by N.J.A.C. 10A:5, Close Custody Units, and N.J.A.C. 10A:4-10, Detention Program.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (a), substituted "may" for "must" following "visits" in the introductory sentence; and in (b), inserted "or disapprove a visit from" following "may approve".

10A:18-6.6 Visits between incarcerated relatives

(a) Visits shall be permitted between incarcerated relatives (see N.J.A.C. 10A:18-1.3) that are incarcerated in facilities under the jurisdiction of the New Jersey Department of Corrections.

(b) The following requirements must be met before visits between incarcerated relatives shall be permitted:

1. Relative relationships must be substantiated by documentation found in the classification folder or from other appropriate resources;
2. Visits must be approved by the Classification Committee(s); and
3. The cost of the visit shall be borne by the inmates involved.

(c) The Business Manager or designee of the correctional facility shall predetermine the expenses involved in arranging a visit between relatives and a detailed statement of expenses shall be prepared in accordance with N.J.A.C. 10A:3-9.13(c).

(d) The frequency, duration and time of the visits must be coordinated between the correctional facilities involved and shall be subject to the other sections of the subchapter.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Substituted "relatives" for "family" or "family members" throughout; deleted former (b); recodified former (c) through (e) as (b) through (d); and in (c), substituted N.J.A.C. reference for specified criteria.

10A:18-6.7 Attorneys and court related personal visits

(a) Attorneys licensed in any jurisdiction and representatives of attorneys shall be permitted contact visits during regular business hours when sufficient space and staff are available.

(b) Representatives of attorneys shall include, but not be limited to the following:

1. Investigators;
2. Investigative aides;
3. Paralegals; and
4. Law students.

(c) A written notice or telephone request from an attorney shall be required 24 hours in advance of an intended visit. The purpose of the advance notice is to insure the availability of:

1. Space;
2. Staff; and
3. The inmate.

(d) Advance notice shall include the following information:

1. Name of the attorney or representative;
2. Name of the inmate to be interviewed;
3. Name of the attorney for whom the representative is acting; and
4. Date and time the interview is sought.

(e) Form 292-I Request for Attorney-Client Contact Visit may be used to verify the inmate's desire to meet with the requesting attorney in the context of an attorney-client relationship.

(f) Appropriate identification is required of attorneys and attorney representatives who visit the inmate at a correctional facility.

(g) Contact visits with attorneys or their representatives may be restricted or prohibited when, in the judgment of the correctional facility Superintendent or designee, the inmate is acting out or is especially dangerous. Contact visits may also be denied where the attorney or representative poses a threat to the security or orderly operation of the correctional facility. In those cases in which contact visits have been denied, every effort shall be made to provide a non-contact visit consistent with the orderly operation of the correctional facility.

(h) The Superintendent or designee may authorize a visit without prior written notice, under exceptional circumstances.

Amended by R.1991 d.155, effective March 18, 1991.
See: 23 N.J.R. 14(a), 23 N.J.R. 859(c).

Added "licensed in any jurisdiction" to modify "attorneys"; added new subsection (e) regarding forms.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-6.8 Visits from children

(a) Children under the age of 18 shall not be permitted to visit unless accompanied by a family member defined as a "relative." (See N.J.A.C. 10A:18-1.3.)

(b) In unusual circumstances, exceptions to (a) above may be made by special approval of the Superintendent or designee.

(c) The adult family member shall be responsible for the supervision of the child accompanying said family member on the visit.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Added (c).

Petition for Rulemaking.

See: 33 N.J.R. 1478(b).

10A:18-6.9 Notification to prospective visitors

(a) The correctional facility Administrator or designee shall be responsible to write a letter of information, in English and translated into Spanish, which provides the pertinent visit regulations with which prospective visitors should be familiar. This letter shall include, but is not limited to, the:

1. Visiting times;
2. Number of permissible visitors;
3. Guidelines for visits by children;
4. Identification required;
5. Smoking policy;
6. Zero Tolerance Drug/Alcohol Policy;
7. Notification that in accordance with N.J.A.C. 10A:18-6.14, all visitors, their belongings and vehicles are subject to searches while on the premises of a facility under the jurisdiction of the Department of Corrections;
8. Notification that a visitor(s) who enters the premises of a facility under the jurisdiction of the Department of Corrections and refuses to submit to a search shall be:
 - i. Banned from visiting an inmate committed to the custody of the Department of Corrections for 60 days and required to reapply in writing to the Administrator for approval/disapproval of the reinstatement of visit privileges; and
 - ii. Directed to immediately leave the premises of the facility under the jurisdiction of the Department of Corrections;
9. Notification that a positive indication as a result of a canine search and/or scanning/testing device search is probable cause to believe that criminal activity has or is taking place and, the visitor(s) shall be:
 - i. Detained;
 - ii. Subject to search and arrest; and
 - iii. In accordance with N.J.A.C. 10A:18-6.14, if a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of the visitor(s), the visitor shall be permanently banned from visiting an inmate committed to the custody of the Department of Corrections;
10. Directions to the correctional facility; and

11. Provisions of N.J.S.A. 2C:29-6 which prescribe specific penalties for introducing contraband into a correctional facility.

(b) Copies of the letter of information shall be posted in the visiting areas of the correctional facility.

(c) An inmate may choose one household which shall be notified by correctional facility staff as to the occupants' approval as visitors. The approved visitors shall receive a copy of the correctional facility's letter of information. Such notification shall be transmitted within five business days from the day the inmate is received at the correctional facility.

(d) When an individual is not approved as a visitor, notice of and reasons for the exclusion shall be given to the inmate who submitted the individual's name. The inmate may appeal the decision to the Administrator who shall respond, in writing, within 10 business days of receipt of the appeal.

(e) Procedures on how the inmate can change his or her list of approved visitors shall be incorporated into the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted new (a)5 and recodified former (a)5 as (a)6.
Amended by R.1998 d.526, effective November 2, 1998.
See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (a), rewrote the introductory paragraph, added a new 6 and recodified former 6 and 7 as 7 and 8.

Amended by R.2001 d.197, effective June 18, 2001.
See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

In (a), substituted "Administrator" for "Superintendent" in the introductory paragraph, added new 7 through 9 and recodified former 7 and 8 as 10 and 11; in (d), substituted "Administrator" for "Superintendent".

10A:18-6.10 Visitor identification

(a) Adult visitors must have identification when visiting an inmate.

(b) One of the following is an acceptable form of visitor identification:

1. A current driver's license;
2. A current Welfare/Medicaid card;
3. An employment photo I.D. card;
4. A current passport; or

5. A joint connection photo I.D. card. No other form of identification is needed with this card.

(c) Social Security cards shall not be used as a means of identification.

(d) Inability to establish identity should be reported to the Superintendent or designee.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), substituted "Adult visitors" for "All visitors"; and in (b), deleted signature card from list acceptable forms of identification.

10A:18-6.11 Visiting schedule

(a) The Superintendent shall establish a visiting schedule consistent with the orderly and efficient operation of the correctional facility.

(b) When the restriction of visiting on scheduled visit days is a hardship to a visitor, arrangements for suitable hours on other days may be made.

(c) Evening visit schedules may be established where the number of staff permit.

(d) Limitation on the length or frequency of visits may be imposed to avoid overcrowded conditions in the visiting area(s) or when deemed necessary by the Superintendent or the highest ranking administrator on duty.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Guidelines for establishing visiting schedules broadened.

10A:18-6.12 Number of visitors

(a) The Superintendent shall establish written regulations as to the maximum number of persons who may visit an inmate at one time.

(b) These regulations should be interpreted flexibly because their purpose is to prevent overcrowding in the visiting room or unusual difficulty in supervising a visit.

10A:18-6.13 Treatment of visitors

All correctional staff members shall treat visitors in a professional, dignified, courteous and respectful manner.

10A:18-6.14 Search of visitors

(a) Signs written in English and Spanish shall be posted in both the visiting area and visiting entrances stating that, as a condition of visitation, all visitors, their belongings and vehicles are subject to search(es) while on the premises of the Department of Corrections.

(b) All visitors entering the premises of a facility under the jurisdiction of the Department of Corrections shall be required to submit to a search(es), such as, but not limited to, a passive canine, scanning/testing device and pat search.

(c) If a visitor refuses to submit to a search, and there is no reasonable suspicion that the visitor is in possession of contraband, the visitor shall be directed to immediately leave the premises of the facility under the jurisdiction of the Department of Corrections. No visit shall be permitted, the visitor shall be banned from visiting an inmate(s) committed to the custody of the Department of Corrections for 60 days and the visitor shall be required to reapply in

writing to the Administrator for approval/disapproval of the reinstatement of visit privileges.

(d) A male or female custody staff member(s) or scanning/testing device operator(s) may be assigned to conduct scanning/testing device searches of visitors regardless of the gender of the visitors as long as no physical contact is required. A custody staff member of the same gender shall be assigned to conduct searches of visitors that require physical contact, such as, but not limited to, pat searches.

(e) In the event that a custody staff member with the rank of Sergeant or above receives information sufficient to form reasonable suspicion that a visitor is carrying contraband, or when contraband has been detected or indicated on a visitor, the visitor shall be pat searched. If contraband is discovered during the pat search of the visitor, the visitor shall be detained and the Special Investigations Division Investigator shall be contacted.

(f) In the event a correctional facility staff member receives information which leads the staff member to believe that a visitor will be concealing contraband on his or her person, the Administrator or designee shall be contacted immediately. The Administrator or designee may ask the local magistrate to issue a search warrant so that the visitor may be strip searched in accordance with (g) below. The information given to the magistrate must establish probable cause to search. A Special Investigations Division Investigator shall be contacted and shall be present at the correctional facility before the strip search is conducted.

(g) An approved strip search shall be conducted in private by a custody staff member(s) of the same gender as the visitor. No member of the opposite gender of the visitor shall be present in the room during the approved strip search.

(h) All contraband discovered during the search of a visitor shall be confiscated by the custody staff member performing the search, and a written report shall be submitted to the Administrator.

(i) The written report shall specify:

1. The name of the custody staff member who performed the search;
2. The name of the inmate who was to receive the visit;
3. The name and address of the visitor who was searched;
4. The time of the search;
5. The type of search and scanning/testing device used, if any, and the results if any;
6. The description of the items confiscated; and
7. The specific reason for confiscating the items.

(j) All contraband and evidence seized shall be turned over to the Special Investigations Division Investigator.

(k) If a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of a visitor(s) who is on the premises of a facility under the jurisdiction of the Department of Corrections:

- i. The Special Investigations Division shall immediately be contacted;
- ii. The visitor(s) shall be detained;
- iii. The visitor(s) shall be subject to search and arrest;
- iv. No visit shall be permitted; and
- v. The visitor(s) shall be permanently banned from visiting an inmate(s) committed to the custody of the Department of Corrections.

(l) The Administrator shall decide whether the visitor shall continue to have visitation privileges except as established in (k) above and in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c).

(m) All searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the visitor's person.

Amended by R.1995 d.526, effective September 18, 1995.

See: 27 N.J.R. 2675(b), 27 N.J.R. 3613(b).

Administrative Correction.

See: 27 N.J.R. 3957(b).

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b), search by scanning device made mandatory; and in (g), reference to pat search deleted.

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (k), added an exception at the end.

Administrative change.

See: 32 N.J.R. 303(a).

Amended by R.2001 d.197, effective June 18, 2001.

See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Rewrote the section.

10A:18-6.15 Search of inmates

All inmates shall be subject to a search(es) such as, but not limited to, a scanning/testing device, canine, passive canine and/or pat search before a visit, and a scanning/testing device, canine, passive canine, pat search and/or strip search after a visit, in accordance with procedures established by N.J.A.C. 10A:3-5, Searches of inmates and facilities.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Amended by R.2001 d.197, effective June 18, 2001.

See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Rewrote the section.

10A:18-6.16 Supervision of visits

(a) Visits shall be supervised to help prevent the passage of contraband and to insure the security and orderly operation of the correctional facility.

(b) The staff member in charge of the visiting room shall be responsible for ensuring that all visits are conducted in a quiet, orderly and dignified manner.

(c) The staff member(s) supervising visits should be cognizant of any articles passed between the inmate and the visitor. If there is a reasonable suspicion that articles are being passed which constitute contraband or are otherwise in violation of the law or regulations, the articles shall be confiscated and examined.

(d) Handshaking, embracing and kissing shall be permitted, within appropriate bounds, at the beginning and end of the visit in order to minimize the opportunity to introduce contraband into the correctional facility.

1. An inmate and visitor may hold hands during the visit.
2. Time restrictions regarding contact shall not apply to small children.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), substituted "orderly operation" for "welfare"; in (c), substituted "reasonable suspicion" for "substantial basis to conclude"; redefined (b)i and ii as (b)1 and 2; and in (b)2, substituted "Time restrictions regarding contact shall not" for "Contact restrictions shall not".

10A:18-6.17 Play areas for children

If a correctional facility provides play areas for children of visitors, signs shall be posted in both English and Spanish stating that children who use the area must be supervised by the parents or a relative and that the area and equipment are used at their own risk.

10A:18-6.18 Gifts of money from visitors

(a) A visitor(s) may only bring a money order or certified check to the correctional facility for deposit in an inmate's account. Cash shall not be accepted.

(b) When a visitor(s) brings a money order or certified check for deposit in the inmate's account, the correctional facility shall:

1. Accept the funds;
2. Establish and/or maintain an appropriate record of funds received;
3. Issue a signed receipt to the visitor(s); and
4. Retain a copy of the receipt.

(c) Each correctional facility may place a limit on the amount of funds which an inmate is permitted to receive, per day, from one visitor or a combination of visitors.

Amended by R.1996 d.22, effective January 2, 1996 (operative February 1, 1996).

See: 27 N.J.R. 3674(a), 28 N.J.R. 152(a).

Substituted "a money order or certified check" and "funds" for "cash", and specified that cash shall not be accepted.

10A:18-6.19 Denial, termination or suspension of a visit

(a) An inmate's visiting privileges shall not be denied because of a violation of correctional facility regulations, other than those regulations specifically related to or concerned with visiting privileges, except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c).

(b) A visit may be denied, terminated or suspended and a visiting privilege suspended under the following circumstances:

1. The visitor(s) is under the influence of drugs or alcohol;
2. Space is unavailable;
3. The visitor(s) refuses to submit to search procedures;
4. The visitor(s) refuses or fails to produce sufficient identification or falsifies identifying information;
5. The visit rules of the correctional facility are violated by the visitor, provided that such rules are posted;
6. Children are disturbing other persons in the visiting area;
7. Physical contact between the visitor and inmate which is in excess of N.J.A.C. 10A:18-6.16(d);
8. Any action that affects the ability of the staff to ensure the safe, secure and orderly operation of the correctional facility and the visiting room; or
9. A violation of the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2.

(c) Except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c), prior to the denial or termination of visiting privileges for circumstances listed in (b) above, less restrictive action should be instituted. Such action may include:

1. Warning the inmate and/or visitor of improper conduct; and/or
2. Transferring the visit to a non-contact visiting area.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b)8, substituted "Any action . . . the visiting room" for "Denial or termination of visiting privileges is necessary to preserve security of the correctional facility and maintain order in the visiting room".

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (a), added an exception at the end; in (b), added a new 9; and rewrote (c).

10A:18-6.20 Request to reinstate contact visit privileges

(a) An inmate may request the reinstatement of contact visit privileges that were terminated in accordance with N.J.A.C. 10A:4-5.1(c) or 5.2(c). After 365 days from the date the sanction was imposed, the inmate may forward a written request for reinstatement of contact visit privileges to the Administrator or designee. If a request is not produced by the inmate, no consideration of reinstatement shall be extended. If the Administrator or designee determines that an inmate's contact visit privileges should be reinstated, such recommendation shall be forwarded to the Commissioner or designee for review and final approval or disapproval. No reinstatement shall be permitted without the expressed consent/approval of the Commissioner or designee.

(b) The reinstatement of contact visit privileges shall not be considered for an inmate who has been found guilty of a second or subsequent drug or alcohol related prohibited act as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c).

New Rule, R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

Former N.J.A.C. 10A:18-6.20, Suspension of visiting program under emergency conditions, was recodified to N.J.A.C. 10A:18-6.21.

Amended by R.2002 d.36, effective February 4, 2002.

See: 33 N.J.R. 3403(a), 34 N.J.R. 743(a).

In (a), inserted "privileges" following "visit" in the second sentence, "contact" following "inmate's" in the fourth sentence, and "or designee" following "Commissioner" in the fourth and fifth sentences, and deleted "Superintendent" following "Administrator" throughout.

10A:18-6.21 Suspension of visiting program under emergency conditions

(a) The Superintendent of a correctional facility shall notify the Commissioner of the Department of Corrections whenever the safety, security and orderly operation of the correctional facility is seriously threatened.

(b) The Commissioner shall determine if an emergency exists at the correctional facility and shall make a public declaration to this effect through the Department's Office of Public Information.

(c) In order to return the correctional facility to a safe, secure and orderly operation, the Superintendent may suspend certain programs for the duration of the emergency. The Superintendent shall consult with the Commissioner regarding the suspension of programs.

(d) The visiting program, including visits to inmates by attorneys and attorney representatives, may be suspended for the duration of an emergency. Information concerning such suspension shall be made part of the public announcement of an emergency.

(e) A public declaration shall be made through the Department's Office of Public Information when the state of emergency has passed, and the scheduling of visits by attorneys and attorney representatives shall be reinstated beginning no later than 24 hours from this public declaration. A statement to this effect shall be made in the public declaration.

(f) The public declaration that the state of emergency has passed shall also contain a statement as to whether the visiting program shall be reinstated. If the visiting program is not to be reinstated, a second public declaration shall be made announcing the date that the visiting program shall be reinstated.

(g) The scheduling of visiting, in terms of the number of visitors, times of visitation and frequency of visits, shall be subject to special conditions as determined by the Superintendent in consultation with the Commissioner. Efforts shall be made to supply all such pertinent information in the public declaration announcing reinstatement of the visiting program.

Recodified from N.J.A.C. 10A:18-6.20 by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

SUBCHAPTER 7. BEDSIDE, PRIVATE VIEWING, AND FUNERAL VISITS

Subchapter Historical Note

Subchapter 7, Bedside and Funeral Visits, was renamed as Subchapter 7, Bedside, Private Viewing, and Funeral Visits, by R.1996 d.489, effective October 21, 1996. See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

10A:18-7.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding bedside, private viewing, and funeral visits by posting appropriate notices in each housing area and other appropriate areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding bedside, private viewing, and funeral visits will be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding bedside, private viewing, and funeral visits.

(d) New or revised rules and procedures regarding bedside, private viewing, and funeral visits shall be incorporated in the next revision of the correctional facility Inmate Handbook.

Amended by R.1996 d.489, effective October 21, 1996.

See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).
 Added provision for private viewing.
 Administrative correction.
 See: 28 N.J.R. 5074(a).
 Amended by R.1997 d.431, effective October 6, 1997.
 See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-7.2 Authority

(a) Pursuant to N.J.S.A. 30:4-8.1, the correctional facility Superintendent may, at his or her discretion, authorize and permit the attendance of an inmate at the bedside of a dying relative, or at a private viewing, when no relatives or friends are present, of a deceased relative as defined in N.J.A.C. 10A:18-1.3 within a six month period of time. Should the relative previously visited at bedside expire more than six months after the date of the bedside visit, the Superintendent may authorize the private viewing visit.

(b) An inmate shall not be permitted to visit relatives or friends during the private viewing of a deceased relative unless the Superintendent has made a recommendation to, and received approval from, the appropriate Assistant Commissioner.

(c) An inmate shall not be permitted to attend or participate in a funeral service unless the Superintendent has made a recommendation to, and received approval from, the appropriate Assistant Commissioner.

(d) The Superintendent may, at his or her discretion and in accordance with (a) above, authorize and permit the attendance of an inmate at the bedside of a dying relative and/or the private viewing of a deceased relative other than those relatives listed in N.J.A.C. 10A:18-1.3 when it can be verified that the relative, such as a grandparent, acted, for a period of time, as a parent or guardian of the inmate.

Amended by R.1988 d.432, effective September 6, 1988.
 See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).
 Substantially amended.
 Amended by R.1995 d.585, effective November 20, 1995.
 See: 27 N.J.R. 3274(a), 27 N.J.R. 4717(b).
 Amended by R.1996 d.489, effective October 21, 1996.
 See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).
 Added provision for private viewing.
 Administrative correction.
 See: 28 N.J.R. 5074(a).
 Amended by R.1997 d.431, effective October 6, 1997.
 See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-7.3 Verification

(a) The burden is on the inmate to prove that the ill or deceased person is a relative as defined in N.J.A.C. 10A:18-1.3 and this subchapter.

(b) The fact of illness or death shall be verified by the Superintendent or designee.

New Rule, R.1988 d.432, effective September 6, 1988.
 See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).
 Old section 3 "Eligibility" recodified to section 4.
 Amended by R.1997 d.431, effective October 6, 1997.
 See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-7.4 Eligibility

(a) The correctional facility Superintendent shall determine whether an inmate is eligible to go on a bedside, private viewing, and/or funeral visit.

(b) If the Superintendent is in doubt as to the propriety of permitting a particular inmate to leave the correctional facility under the circumstances enumerated in this subchapter, the Superintendent shall consult with the appropriate Assistant Commissioner.

Amended by R.1988 d.432, effective September 6, 1988.
 See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Recodified old section 4 "Court ordered funeral visits" to section 7; repealed text in (a) "The correctional facility . . . his or her designee," also repealed subsections (c) and (d).
 Amended by R.1995 d.585, effective November 20, 1995.
 See: 27 N.J.R. 3274(a), 27 N.J.R. 4717(b).
 Amended by R.1996 d.489, effective October 21, 1996.
 See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).
 Added provision for private viewing.
 Administrative correction.
 See: 28 N.J.R. 5074(a).
 Amended by R.1997 d.431, effective October 6, 1997.
 See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-7.5 Ineligibility

(a) The inmate shall not be permitted to go on a bedside, private viewing, or funeral visit that is outside the State of New Jersey.

(b) The inmate shall not be permitted to go on a bedside, private viewing, or funeral that is in a private residence.

(c) The correctional facility Superintendent is not required to permit bedside, private viewing, or funeral visits if:

1. The visit will interfere with the security or orderly operation of the correctional facility;
2. The inmate has demonstrated a poor correctional facility adjustment;
3. The inmate is a known escape risk;
4. The inmate has a history of guilty findings for serious disciplinary offenses;
5. The inmate is recognized as untrustworthy;
6. The inmate is a highly publicized person whose reappearance in the community under any conditions other than strict compliance with the laws governing parole and release would cause unfavorable comment in the community; or
7. The location of the bedside visit, private viewing, or funeral could place either the escorting correction officer(s) or the inmate in jeopardy.

New Rule, R.1988 d.432, effective September 6, 1988.
See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Old section 5 "Payment of visit expense" recodified to section 8.
Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).
Added provision for private viewing.
Administrative correction.

See: 28 N.J.R. 5074(a).
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (c)2, substituted "has demonstrated . . . adjustment" for "incurable criminal"; and in (c)4, substituted "history of . . . offenses" for "unusual disciplinary problems".

10A:18-7.6 Security

During the bedside, private viewing, or funeral visit, the inmate shall at all times be in the custody of one or more correction officers.

New Rule, R.1988 d.432, effective September 6, 1988.
See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Old section 6 "Notification of Central Office" recodified to section 9.
Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).
Added provision for private viewing.

Administrative correction.
See: 28 N.J.R. 5074(a).
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-7.7 Court ordered private viewing, or funeral visits

All court orders for bedside, private viewing, or funeral visits shall be referred immediately to the Office of the Commissioner for visit authorization.

Administrative Correction to (b) changing the visit authorization.
See: 22 N.J.R. 3625(a).

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.
Administrative correction.
See: 28 N.J.R. 5074(a).
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Substantially amended section.

10A:18-7.8 Payment of visit expenses

(a) The inmate or the inmate's family shall reimburse the correctional facility for all travel and other necessary expenses.

(b) No inmate shall be denied approval for a bedside, private viewing, or funeral visit solely because of the inability of the inmate and his or her family to pay travel and other expenses. In the event that an inmate is indigent and it can be verified that the inmate's family is unable to reimburse the correctional facility for the expenses of a bedside, private viewing, or funeral visit, the correctional facility shall assume the expenses of the visit.

(c) The Business Office of the correctional facility shall predetermine the expenses claimed for reimbursement upon the approval by the Superintendent.

(d) In accordance with N.J.A.C. 10A:3-9.13(c), a detailed written statement of expenses shall be prepared to determine the amount of reimbursement due.

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.
Administrative correction.
See: 28 N.J.R. 5074(a).
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (d), substituted N.J.A.C. reference for specified criteria.

10A:18-7.9 Notification of Central Office

All bedside, private viewing, and funeral visits shall be noted in the Superintendent's monthly report.

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.
Administrative correction.
See: 28 N.J.R. 5074(a).

SUBCHAPTER 8. TELEPHONE

Law Review and Journal Commentaries

ACLU Plans Suit to Challenge Prison Censorship. Hanna W. Rosin, 132 N.J.L.J. No. 13, 3 (1992).

10A:18-8.1 Written procedures

(a) Each correctional facility shall develop and implement written procedures which provide inmates with reasonable and equitable access to public telephones. These procedures shall specify:

1. Hours of telephone availability;
2. Maximum length of telephone calls; and
3. Any limitation on telephone calls.

10A:18-8.2 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding telephone calls by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding telephone calls shall be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding telephone calls.

(d) New or revised rules and procedures regarding telephone calls shall be incorporated into the next revision of the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-8.3 Monitoring of telephone calls

All inmate telephone calls may be monitored and recorded except calls to the Special Investigations Division and legal telephone calls which are made in accordance with N.J.A.C. 10A:18-8.6.

Amended by R.1998 d.93, effective February 17, 1998.
See: 29 N.J.R. 4735(a), 30 N.J.R. 674(a).

Rewrote (a) adding language which allows the Department of Corrections to monitor and/or record all inmate telephone calls with the exception of legal telephone calls; and deleted former (a), (b), and (c).
Amended by R.1998 d.364, effective July 20, 1998.
See: 30 N.J.R. 1367(b), 30 N.J.R. 2618(b).

Inserted "calls to the Internal Affairs Unit and" preceding "legal telephone calls".
Administrative change.
See: 32 N.J.R. 303(a).

10A:18-8.4 Cost of telephone calls

Outgoing telephone calls made by inmates shall be collect calls with the exception of telephone calls between incarcerated relatives which shall be handled in accordance with N.J.A.C. 10A:18-8.7.

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

Institutional name change.
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Deleted McCorkle Training School for Boys and Girls exception to collect calls requirement and substituted "relatives" for "family members".

10A:18-8.5 Emergency telephone calls

(a) An inmate shall be permitted to make monitored telephone calls of reasonable length, as determined by the monitor, in emergencies such as:

1. The serious illness of a relative;
2. The death of a relative; or

3. Impending disaster related to the inmate's property which cannot be deferred until regular mail delivery.

(b) Whenever an emergency telephone call for an inmate is received by the correctional facility:

1. The telephone number and name of the calling party shall be taken;

2. The particulars of the telephone call shall be noted;

3. The Social Service Department shall check, to the extent possible, the validity of the telephone call;

4. The Social Service Department shall inform the inmate of the validated telephone call within 24 hours from the time the call was received; and

5. The inmate shall be permitted to return the emergency telephone call.

(c) In the event emergency telephone calls are received after regular correctional facility working hours, on weekends or holidays and a social worker is not available to perform the duties in (b) above within 24 hours, a custody supervisor on duty shall check the validity of the emergency telephone call and follow the procedures outlined in (b) above.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

10A:18-8.6 Legal telephone calls

(a) The Superintendent of the correctional facility shall establish written rules and regulations by which legal telephone calls may be made by:

1. Inmates;
2. Inmate paralegals; and
3. Professional staff.

(b) Legal telephone calls may be made to the following individuals or agencies for assistance in legal research and/or preparation of legal documents:

1. Office of the Public Defender;
2. Regional Legal Services;
3. Court Clerks;
4. Attorneys; and
5. Ombudsmen.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b), deleted "Office of the Public Advocate" from list of approved individuals or agencies.

Amended by R.1998 d.93, effective February 17, 1998.

See: 29 N.J.R. 4735(a), 30 N.J.R. 674(a).

In (b)4, deleted "of Record" preceding "attorneys" and deleted (b)6.

10A:18-8.7 Telephone calls between incarcerated relatives

(a) Telephone calls shall be permitted between incarcerated relatives (see N.J.A.C. 10A:18-1.3).

(b) Telephone calls between incarcerated relatives shall be permitted if:

1. The relative relationship has been substantiated through documentation found in the classification folder or other appropriate resources;
2. The telephone calls have been approved by the Institutional Classification Committee (I.C.C.);
3. The full costs of the telephone calls are borne by the inmates involved; and
4. The frequency, duration and time of the calls are coordinated between the correctional facilities involved, subject to other provisions of this subchapter.

Amended by R.1988 d.238, effective June 6, 1988.

See: 20 N.J.R. 496(c), 20 N.J.R. 1229(a).

(a)4 substituted "siblings" for "brother and sister".

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Substituted reference to relatives for reference to family members throughout.

10A:18-8.8 Telephone use by authorized inmate groups

(a) Correctional facilities are not obligated to provide direct telephone lines to inmate groups or organizations.

(b) Authorized inmate groups and organizations may be permitted to make telephone calls to achieve approved objectives of that group in accordance with written rules and regulations established by the Superintendent.

(c) Authorized groups and organizations shall assume the cost of telephone calls that are made in furtherance of their approved objectives.

(d) Telephone calls may be monitored at the Superintendent's discretion.

10A:18-8.9 Telephone use in Close Custody Units

Inmate access to telephones in Close Custody Units shall be governed by N.J.A.C. 10A:5, Close Custody Units.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

SUBCHAPTER 9. RESTRICTIONS ON SEXUALLY ORIENTED MATERIALS AT THE ADULT DIAGNOSTIC AND TREATMENT CENTER

Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

R.1999 d.193, effective June 21, 1999.

See: 31 N.J.R. 918(a), 31 N.J.R. 1615(a).

10A:18-9.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

"Associated anatomical area" means exposed or unclothed genitalia or female breasts.

"Sexual activity" means actual or simulated ultimate sexual acts including sexual intercourse, oral sex, masturbation or bestiality.

"Sexually oriented material" means a picture or other representation, publication, sound recording, live performance or film that contains a description or depiction of sexual activity or associated anatomical area, as these terms are herein defined.

10A:18-9.2 Disapproved materials

(a) In addition to the restrictions upon the receipt, possession or distribution of correspondence and publications otherwise provided in this chapter, inmates confined to the Adult Diagnostic Treatment Center shall not receive, possess, distribute or exhibit sexually oriented materials, as defined in this subchapter.

(b) Materials containing a depiction or description of sexual activity or an associated anatomical area shall not be considered "sexually oriented" unless the material is predominantly oriented to such depictions or descriptions.

(c) A newspaper, magazine or other similar publication shall not be considered predominantly oriented to the depiction or description of sexual activity or associated anatomical area unless the publication features or contains such descriptions or displays on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues.

10A:18-9.3 Procedures for notifying inmates of the withholding and removal of sexually oriented materials

(a) Inmates at the Adult Diagnostic and Treatment Center (A.D.T.C.) shall be informed of the rules governing the withholding and removal of sexually oriented materials regarding the receipt, possession, distribution or exhibition of sexually oriented materials by posting appropriate notices in the correctional facility and by the inclusion of said rules into the correctional facility handbook.

(b) Inmates confined to the A.D.T.C. shall acknowledge in writing their knowledge/understanding of the rules pertaining to the receipt, possession, distribution of sexually oriented materials.

(c) For illiterate inmates, inmates not sufficiently conversant with the English language or inmates otherwise unable to read or write due to a physical/medical inability, the rules established in this subchapter shall be verbally communicated and assistance shall be provided to those inmates unable to provide written acknowledgment.

(d) In the event an inmate refuses to acknowledge in writing their knowledge/understanding of the rules pertaining to the receipt, possession and distribution of sexually oriented materials, the following shall be noted in writing:

“Inmate refuses to acknowledge in writing his/her knowledge/ understanding of the rules pertaining to the receipt, possession and distribution of sexually oriented materials.”

| | |
|--------------------------------------|---|
| Name and number of inmate | Date |
| Signature of designated staff member | Printed name of designated staff member |

(e) Rules governing inspection, identification of incoming and outgoing publications, control of publications and the procedures for handling, withholding and disposing of publications, and appeals in N.J.A.C. 10A:18-4 shall apply to sexually oriented materials at the A.D.T.C.

10A:18-9.4 Use of materials in authorized treatment

(a) Nothing in this subchapter shall preclude an inmate at the Adult Diagnostic and Treatment Center (A.D.T.C.) from observing sexually oriented materials during an authorized treatment therapy session if the Administrator or designee, after consultation with the treatment staff, determines that the possession of the materials by the inmate is required for rehabilitation purposes.

(b) Any sexually oriented materials made available to an inmate for observation in an authorized treatment therapy session pursuant to this section shall at all times remain in the possession and control of the treatment staff. The treatment staff shall at all times supervise the observation and use of the materials by the inmate. The materials may not be possessed by the inmate at any time or for any purpose except during the authorized treatment therapy session.

10A:18-9.5 Sanctions

(a) As provided in N.J.S.A. 2C:47-10(c), any inmate at the Adult Diagnostic and Treatment Center (A.D.T.C.) who receives, possesses, distributes or exhibits sexually oriented materials shall be subject to an on-the-spot sanction(s) in accordance with N.J.A.C. 10A:4-7.

(b) As provided in N.J.S.A. 2C:47-10(d), any person who sells or offers sexually oriented materials for purposes of possession or viewing or who receives, possesses, distributes, or exhibits any text, paragraph, film, video or any other reproduction or reconstruction which depicts a person under 18 years of age, engaging in a prohibited sexual act or in the simulation of such an act as defined in section 2 of P.L. 1992, c.7 (N.J.S.A. 2A:30B-2) within the A.D.T.C. shall be charged with an inmate prohibited act and is subject to a sanction(s) in accordance with N.J.A.C. 10A:4-5.

10A:18-9.6 Other materials that may impede rehabilitation

The provisions of this subchapter shall not preclude the Administrator or designee from prohibiting an inmate(s) at the Adult Diagnostic and Treatment Center to receive, possess, distribute, or display any material which is not sexually oriented material if the Administrator or designee, in consultation with the treatment staff, determines that the receipt, possession, distribution, or display of that material will impede the rehabilitation of the inmate(s).