

CHAPTER 9

CLASSIFICATION PROCESS

Authority

N.J.S.A. 30:1B-6, 30:1B-10, 52:17B-169, 2C:35-4, 2C:35-5, 2C:15-2 and the settlement in *Groves v. Fauver*, Dkt. No. 91-796 (D.N.J. March 15, 1995).

Source and Effective Date

R.1997 d.122, effective February 14, 1997.
See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Executive Order No. 66(1978) Expiration Date

Chapter 9, Classification Process, expires on February 14, 2002.

Chapter Historical Note

Chapter 9, Classification Process, was adopted as R.1987 d.48, effective January 20, 1987. See: 18 N.J.R. 1649(a), 19 N.J.R. 218(a). Pursuant to Executive Order No. 66(1978), Chapter 9 expired on January 20, 1992.

Chapter 9, Classification Process, was adopted as new rules by R.1992 d.79, effective February 18, 1992. See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Classification Process, was readopted as R.1997 d.122, effective February 14, 1997. See: Source and Effective Date. As a part of R.1997 d.122, effective March 17, 1997, Subchapter 9, Reception and Placement Process for Male Juveniles; Subchapter 10, Juvenile Institutional Classification Committee (J.I.C.C.); and Subchapter 11, Juvenile Female Classification Committee (J.F.C.C.), were repealed. See, also, section annotations.

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SUBCHAPTER 1. INTRODUCTION

10A:9-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish criteria for eligibility for reduced custody status;
2. Establish procedures regarding the award and forfeiture of commutation time and work credits;
3. Provide an orderly process for deciding the degree of custody and appropriate correctional facility for each inmate;
4. Provide an orderly process for considering transfers of inmates between correctional facilities;
5. Establish a mechanism for deciding whether to recommend parole for persons confined pursuant to N.J.S.A. 2C:47 and 2A:164; and
6. Establish rules to adequately fulfill the functions of the Department of Corrections as enumerated in N.J.A.C. 10A:1-1.1.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Added (a)7.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Deleted (a)6, relating to a process for assignment and transfer of juvenile offenders; and recodified (a)7 as (a)6.

10A:9-1.2 Scope

(a) This chapter shall be applicable to the Division of Operations unless otherwise indicated.

(b) N.J.A.C. 10A:9-8 shall be applicable to inmates sentenced under N.J.S.A. 2C:47 and 2A:164 who are housed at either the Adult Diagnostic and Treatment Center (A.D.T.C.) or other facilities.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Substantially amended section.

10A:9-1.3 Definitions

The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

“A.D.T.C.” means the Adult Diagnostic and Treatment Center, the correctional facility designated to house persons who have been convicted pursuant to N.J.S.A. 2C:47 and 2A:164.

“Classification Committee” means a group of correctional staff persons that have been designated to make decisions related to the needs of inmates from admission to discharge.

“Classification material” means documents in the classification folder on which information regarding an inmate is recorded such as psychological or psychiatric evaluations, rap sheets, disciplinary charges, program participation, presentence reports, medical records, etc.

“Custody status” means the custody assignment of an inmate. There are six categories:

1. Close custody;
2. Maximum custody;
3. Medium custody;
4. Gang minimum custody
5. Minimum custody; and
6. Community custody.

“Detainer” means a warrant or formal authorization to hold an inmate for prosecution or detention by a Federal, State or local law enforcement agency or the U.S. Immigration Department. Detainers may include, but are not limited to:

1. Adjudicated criminal charges for which sentence has been imposed;
2. Criminal charges resulting from indictment, for which there is no final disposition (open charges);
3. Warrants for violation of parole or probation; and
4. Immigration detainers.

“Gap time credit” means the credit awarded by the sentencing court for the period of time between dates of sentence when a defendant, who has previously been sentenced to imprisonment, is subsequently sentenced to another term for an offense committed prior to the former sentence, other than an offense committed while in custody.

“Increased custody” means assignment of an inmate to a custody level that requires more supervision.

“Intensive Supervision Program” means the program which permits certain offenders sentenced to State correctional institutions to be sentenced by a Resentencing Panel of judges to an intermediate form of punishment between incarceration and probation.

“Jones Farm” means a community based satellite unit of the New Jersey State Prison, which houses inmates in full minimum custody status who meet the criteria for assignment to that facility.

“Objective classification” means the standardized evaluation and custody assignment score of an inmate based on the following criteria:

1. Severity of current offense;
2. Prior assaultive offense history;

(e) The S.C.R.B. shall meet at the Adult Diagnostic and Treatment Center (A.D.T.C.) once per month or more often as deemed necessary, on a day and at a time agreed on by S.C.R.B. members. Special meetings may be held when called by the Chairperson or Vice Chairperson. A majority of S.C.R.B. members must be present to conduct official business.

Amended by R.1997 d.122, effective March 17, 1997.
See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Substantially amended (a); recodified portion of (a) as (b) and substantially amended; and recodified former (b) through (d) as (c) through (e).

10A:9-8.3 Coordinator for the Special Classification Review Board (S.C.R.B.)

(a) A staff member of the Adult Diagnostic and Treatment Center (A.D.T.C.) shall be designated by the Superintendent to serve as Coordinator for the Special Classification Review Board (S.C.R.B.).

(b) The Coordinator shall be responsible for the following duties:

1. Maintaining S.C.R.B. statistics and records;
2. Maintaining minutes of S.C.R.B. meetings;
3. Informing S.C.R.B. members and maintaining a file of all court decisions regarding the New Jersey Sex Offender Program;
4. Providing notice to each inmate scheduled for in-person review by the S.C.R.B., at least three working days in advance of the scheduled hearing date;
5. Providing each S.C.R.B. member with copies of written materials for review prior to each scheduled hearing date;
6. Notifying the Commissioner at least six months prior to the termination of a S.C.R.B. member's term to provide adequate time to review prospective applicants for possible appointment; and
7. Providing other services as requested by the Superintendent or S.C.R.B. members.

10A:9-8.4 Reviews of inmates housed at the Adult Diagnostic Treatment Center (A.D.T.C.)

(a) The Superintendent of the Adult Diagnostic and Treatment Center (A.D.T.C.) shall report in writing (Form SCR 2A) at least twice per year to the Special Classification Review Board (S.C.R.B.) concerning the physical and psychological condition of each inmate eligible for parole consideration.

(b) The Superintendent shall include in each report a recommendation as to whether the inmate should continue to be confined or should be considered for release on parole.

(c) An inmate with a judicially imposed period of parole ineligibility shall not appear before the S.C.R.B. until the inmate's period of parole ineligibility has been served, except for inmates who have made exceptional progress as determined by the mental health staff.

(d) An inmate shall receive an in-person interview with the S.C.R.B. upon completion of one-fourth of the inmate's sentence without regard to applicable credits, unless the inmate has a judicially imposed period of parole ineligibility with the exception of those inmates who have made exceptional progress as determined by the mental health staff.

(e) The Superintendent shall recommend whether an inmate other than those in (c) and (d) above shall have an in-person or non in-person review by the S.C.R.B.

(f) During in-person reviews, the inmate appears before the S.C.R.B. and shall be afforded the opportunity to present any matter which he or she believes is related to his or her possible parole. S.C.R.B. members may question the inmate regarding:

1. Criminal conduct;
2. Record of adjustment to incarceration;
3. Progress in therapy; or
4. Any matter which the S.C.R.B. members think is relevant.

(g) During non in-person reviews, the inmate does not appear before the S.C.R.B. The S.C.R.B. shall review all documents provided pursuant to (g) below.

(h) The following shall apply to all reviews:

1. The Board shall not be bound by judicial rules of evidence;
2. Attorneys shall not be permitted to appear before the S.C.R.B. at meetings;
3. Letters from attorneys, relatives or other interested persons shall be considered and, if relevant, may be made part of the record;
4. News media representatives shall be permitted to attend reviews only as authorized by N.J.A.C. 10A:19.
5. Other observers may be permitted to attend by the Chairperson, with the approval of the Superintendent.

(i) In preparation for each in-person review, the Coordinator shall provide the S.C.R.B. members with copies of the following:

1. Report of the primary therapist, which shall include a summary of the inmate's overall adjustment and progress of therapy;
2. Staff recommendations;
3. Chronological semiannual reviews;

4. Outpatient report;
5. Presentence report; and
6. Progress notes.

Amended by R.1997 d.122, effective March 17, 1997.
See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Inserted new (c) and (d); recodified former (c) through (g) as (e) through (i); in (e), substituted "recommend whether an inmate other than those in (c) and (d) above" for "also recommend whether the inmate" and deleted provision that generally only inmates recommended for parole receive an in-person review; in (i), substituted reference to in-person review for reference to review; inserted (i)6; and deleted former (h), relating to materials to be provided for in-person reviews.

10A:9-8.5 Review of inmates housed at other correctional facilities

(a) All inmates sentenced under N.J.S.A. 2A:164 who are transferred from the Adult Diagnostic and Treatment Center (A.D.T.C.) to other correctional facilities for disciplinary or other reasons requiring temporary relocation outside of the A.D.T.C. shall be subject to review by the Special Classification Review Board (S.C.R.B.).

1. The Superintendent of a correctional facility other than the Adult Diagnostic Treatment Center (A.D.T.C.) where an inmate sentenced under N.J.S.A. 2A:164 is housed shall forward in writing (Form SCRIB 2A) the required semiannual reports (see N.J.A.C. 10A:9-8.4) to the Superintendent of the A.D.T.C. The report shall contain a recommendation as to the inmate's continued confinement or consideration for release on parole.

2. If the inmate is recommended for consideration for parole, the inmate shall be transported to the A.D.T.C. for the day to appear before the A.D.T.C.'s treatment staff. If the A.D.T.C. treatment staff concurs with the recommendation, the inmate shall remain at the A.D.T.C. for an in-person review before the Special Classification Review Board (S.C.R.B.).

3. If the inmate is not recommended for parole, the S.C.R.B. shall conduct a non in-person review.

(b) Inmates sentenced under N.J.S.A. 2A:164 who are transferred permanently from the A.D.T.C. are subject to resentencing under N.J.S.A. 2C:47. These inmates are no longer subject to S.C.R.B. review.

10A:9-8.6 Decisions of the Special Classification Review Board (S.C.R.B.); in-person review

(a) After each in-person review, a vote shall be taken to determine whether the Special Classification Review Board (S.C.R.B.) will recommend parole. A tie vote shall be deemed a rejection.

(b) An inmate who has been denied a recommendation of parole shall be rescheduled for an in-person S.C.R.B. review at the discretion of the S.C.R.B., except as permitted by (c) below. In no event shall the inmate be rescheduled for another in-person S.C.R.B. review later than 36 months from the date of the decision of the S.C.R.B. to deny recommendation of parole.

(c) The S.C.R.B. may defer its decision in appropriate cases, or in those cases where additional information is requested. Such cases may be presented for in-person review in three months.

(d) SCRIB Form 2A shall be signed by each S.C.R.B. member in attendance so as to provide documentation as to its decision and the date reviewed.

(e) Within 10 working days after each in-person hearing, the S.C.R.B. shall provide the inmate with a copy of its written decision on A.D.T.C. Form 296 (R-1) and, if an inmate is denied a recommendation to the State Parole Board, a copy of the summary of reason(s) for denial shall be provided to the inmate. The form shall be signed by the S.C.R.B. chairperson or designee.

(f) The S.C.R.B. shall summarize in its written decision the reasons for its conclusion. The reasons are within the S.C.R.B.'s sole discretion, and may include therapeutic issues deemed to require additional work.

(g) The Coordinator shall prepare a summary of each inmate's presentation to the S.C.R.B. The summary shall be reviewed and signed by the Chairperson and placed in the inmate's classification and S.C.R.B. folders.

Amended by R.1997 d.122, effective March 17, 1997.
See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Substantially amended (b); and in (e), inserted text "and, if an inmate is denied ... provided to the inmate".

10A:9-8.7 Decisions of the S.C.R.B.; non in-person review

(a) S.C.R.B. Form 2A shall be signed by each S.C.R.B. member in attendance so as to provide documentation as to its decision and the date reviewed.

(b) Within 10 working days after each non in-person review, the S.C.R.B. shall provide the inmate with a copy of its written decision on A.D.T.C. Form 296 (R-1). The form shall be signed by the Chairperson or his or her designee.

10A:9-8.8 Appeal of the Special Classification Review Board (S.C.R.B.) denial

(a) Any inmate denied a referral to the State Parole Board by the S.C.R.B. on two consecutive occasions shall have the right to appeal to the S.C.R.B. chairperson within 30 days of the S.C.R.B.'s second denial, after the inmate consults his or her primary therapist to review any therapeutic issues.