

**TITLE 10A**

**DEPARTMENT OF CORRECTIONS**

**CHAPTER 1**

**ADMINISTRATION, ORGANIZATION AND  
MANAGEMENT**

**Authority**

N.J.S.A. 30:1B-6 and 30:1B-10; and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq.

**Source and Effective Date**

R.2003 d.176, effective April 9, 2003.  
See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, Administration, Organization and Management, expires on October 6, 2008. Subchapter 3, Disability Discrimination Grievance Procedure, is exempt from expiration under 28 C.F.R. Part 35. See: 40 N.J.R. 1736(b).

**Chapter Historical Note**

Chapter 1, Administration, Organization and Management, was adopted as R.1987 d.282, effective July 6, 1987. See: 19 N.J.R. 620(a), 19 N.J.R. 1214(a).

Subchapter 2, General Provisions, was adopted as R.1988 d.240, effective June 6, 1988. See: 20 N.J.R. 493(a), 20 N.J.R. 1222(c).

Subchapters 3 through 10, (Reserved), and Subchapter 11, Personal Property of Inmates, were adopted as R.1988 d.306, effective July 5, 1988. See: 20 N.J.R. 494(a), 20 N.J.R. 1559(b).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, Organization and Management, was readopted as R.1992 d.269, effective June 1, 1992. See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Operation and Procedures of the Department of Corrections; Subchapter 2, General Procedures; Subchapters 4 through 9, (Reserved); Subchapter 10, Research; and Subchapter 11, Personal Property of Inmates, expired on June 1, 1997.

Subchapter 1, Operation and Procedures of the Department of Corrections; Subchapter 2, General Procedures; Subchapters 4 through 9, (Reserved); Subchapter 10, Research; and Subchapter 11, Personal Property of Inmates, were adopted as R.1997 d.527, effective December 15, 1997. See: 29 N.J.R. 4231(a), 29 N.J.R. 5296(a).

Subchapter 3, Disability Discrimination Grievance Procedure, was adopted as R.1993 d.617, effective December 6, 1993. See: 25 N.J.R. 1326(b), 25 N.J.R. 5474(a).

Chapter 1, Administration, Organization and Management, was readopted as R.2003 d.176, effective April 9, 2003. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. OPERATION, PROCEDURES AND RULEMAKING ACTIVITY OF THE DEPARTMENT OF CORRECTIONS

### 10A:1-1.1 Functions of the agency

(a) The Department of Corrections (D.O.C.), created by statute in 1976, is a principal Department in the Executive Branch of New Jersey State Government. The functions of the D.O.C. are to:

1. Protect the public and provide for the custody, care, discipline, training and treatment of persons committed to State correctional facilities;
2. Supervise and assist in the treatment and training of persons in local correctional and detention facilities, so that such persons may be prepared for release and reintegration into the community;
3. Cooperate with other law enforcement agencies of the State to encourage a more unified system of criminal justice.
4. Provide maximum security confinement for offenders whose demonstrated propensity to acts of violence requires that these offenders be separated from the community;
5. Develop alternatives to conventional incarceration for offenders who can be dealt with more effectively in less restrictive community based facilities and programs;
6. Provide an environment for incarcerated persons which encourages rehabilitation and reintegration into the community; and
7. Protect the incarcerated offender from victimization within the correctional facilities of the D.O.C.

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

In (a)1, deleted "or released on parole" following "committed to State correctional facilities".

### 10A:1-1.2 Procedure to petition for rulemaking

(a) An interested person may apply to petition for the promulgation, amendment or repeal of any rule of the Department of Corrections. A petition shall:

1. Be in writing;
2. Be legible and intelligible; and
3. Be signed by the petitioner.

(b) Each petition shall contain the following information:

1. The full name and address of the petitioner;
2. Citation of the rule for which the proposal is made, using N.J.A.C. references, where applicable;

3. A clear and concise statement summarizing the substance of the rule sought or change to be suggested;

4. A specific statement explaining why the suggestion is being offered and summary of reasons therefor; and

5. A citation of statutory authority under which the Department of Correction is authorized to act.

(c) The petition shall be sent to the Supervisor, Administrative Rules Unit, Office of the Commissioner, Department of Corrections, Cubberly Building, PO Box 863, Trenton, New Jersey 08625-0863.

(d) When the Commissioner, or designee, accepts the petition which satisfies the requirements of (a), (b) and (c) above, the Department of Corrections shall file the document for publication as a notice of petition for a rule in the New Jersey Register pursuant to N.J.A.C. 1:30-4.1(c).

(e) No later than 60 days following receipt of an accepted petition, the Department of Corrections shall mail to the petitioner and file for publication in the New Jersey Register a notice of action on the petition which shall contain the information described by (b) above. The notice of action shall include either:

1. A statement denying the petition and including a written statement of the reason(s);
2. A notice granting the petition and including a statement that the Department shall initiate a rulemaking proceeding within 90 days of granting the petition; or
3. A statement that the matter is being referred for further deliberations, the nature of which shall be specified and which shall be concluded within 90 days of referring the matter for further deliberations.

(f) Upon conclusion of further deliberations, as established in (e)3 above, the Department shall mail to the petitioner and file for publication in the New Jersey Register another notice of action on the petition which shall either deny the petition and include a statement of the reasons(s), or grant the petition and include a statement that the Department shall initiate rulemaking proceedings within 90 days of granting the petition.

Amended by R.1992 d.269, effective July 6, 1992.

See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Revised (c)-(d).

Administrative Correction in (d) and (e).

See: 24 N.J.R. 4390(a).

Administrative Change.

See: 25 N.J.R. 4105(a).

Amended by R.2001 d.220, effective July 2, 2001.

See: 33 N.J.R. 1288(a), 33 N.J.R. 2290(a).

Rewrote (c); in (d), inserted "or designee," preceding "accepts the petition", substituted references to (a), (b) and (c) for references to (a) and (b), and amended the N.J.A.C. reference; rewrote (e); added (f).

Administrative change.

See: 36 N.J.R. 1779(a).

**10A:1-1.3 Public and inmate information requests**

(a) Members of the public, other than inmates, may obtain general information from the Department of Corrections by writing to the Department of Corrections, Office of Public In-

formation at PO Box 863, Trenton, New Jersey 08625-0863, by accessing the official Department of Corrections website at [www.state.nj.us/corrections](http://www.state.nj.us/corrections), or by making a telephone call to (609) 292-9340.

Program; the supervision of certain Executive Clemency cases; and any other inmate residential community programs such as halfway houses and the Work Release Program.

“DNA” means deoxyribonucleic acid.

“DNA sample” means a blood or other biological sample provided by any person pursuant to the DNA Database and Databank Act of 1994 (N.J.S.A. 53:1-20.17 et seq.).

“Domestic partner” or “partner” means a person who is in a relationship that satisfies the definition of a domestic partnership as set forth in the New Jersey “Domestic Partnership Act,” N.J.S.A. 26:8A-1 et seq.

“Electronic communication device” means a device or related equipment or peripheral that is capable of electronically receiving, transmitting or storing a message, image or data. Examples of such electronic devices include, but are not limited to, all types and sizes of a computer, telephone, two-way radio, camera or video/audio player/recorder, fax machine, pager or beeper, personal data assistant, hand-held e-mail system, or any other device containing a means of internet access or receiving, transmitting or storing information electronically by means of audio, visual or recorded data.

“Electronic Monitoring Program (EMP)” means a program in which an inmate lives in the community and is monitored by an electronic monitoring device.

“Family member” means:

1. Spouse;
2. Domestic Partner;
3. Partner in a civil union couple;
4. Parent;
5. Stepparent;
6. Legal guardian;
7. Grandparent;
8. Child; or
9. Sibling.

“Firearm” means any hand gun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile, bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the ignition of flammable or explosive substances.

“General population” means the common body of inmates not assigned to Close Custody Units (see N.J.A.C. 10A:5).

“Handbook on Discipline” means a handbook published by the Department of Corrections that is provided to inmates which contains an inmate’s rights and responsibilities, the

acts and activities which are prohibited and the disciplinary procedures and sanctions imposed.

“Housing unit” means a cell, dormitory or other type of sleeping area within a correctional facility.

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

“Indeterminate sentence” means a sentence of imprisonment which contains no fixed term of duration (see N.J.S.A. 30:4-148).

“Indigent inmate” means an inmate who has no funds in his or her account and is not able to earn inmate wages due to prolonged illness or any other uncontrollable circumstances, and who has been verified as having no outside source from which to obtain funds.

“Inmate handbook” means a booklet that is provided to inmates which contains site-specific correctional facility rules and procedures, and information about services and programs. An Inmate Handbook may also mean a unit-specific handbook when identified as such. Such unit-specific handbooks shall be provided to inmates who are assigned to certain units, such as, but not limited to, a Close Custody Unit.

“Inmate Liaison Committee” means an inmate group made up of inmate representatives, authorized by the correctional facility administration to act on behalf of the inmate population of the correctional facility. Such an inmate committee may be known as something other than an “Inmate Liaison Committee.”

“Inmate personal property” means items owned by an inmate which have been approved for retention by the inmate while incarcerated in a correctional facility. Inmate personal property may also be property held by a correctional facility on behalf of an inmate and handled in accordance with N.J.A.C. 10A:1-11.

“Institutional Classification Committee (I.C.C.)” means the committee of correctional facility staff members responsible for monitoring an inmate’s progress and assigning the inmate to appropriate programs or activities. The I.C.C. may consist of subcommittees as deemed necessary.

“Institutional Classification Reception Committee (I.C.R.C.)” means the committee of staff members responsible for determining the initial custody status and correctional facility assignments of male inmates; the custody status and correctional facility assignments of male parole violators, escapees and Interstate Corrections Compact transferees; and for recommending inmates at the Central Reception and Assignment Facility (CRAF) who are considered appropriate for Protective Custody.

“Internal Management Procedures” means procedures that are issued by the correctional facility/unit Administrator or

supervisor or designee to provide specific operating procedures for that particular correctional facility/unit.

“Keep separate status” means the intentional assignment of certain inmates to different correctional facilities or different units within a correctional facility so as to maintain a separation between these inmates in order to prevent the possibility of retaliation because of a previous act or occurrence.

“Lawfully confined” means custodial confinement in a municipal detention facility, county correctional facility or a Department of Corrections facility.

“Legal correspondence” means the exchange of letters between an inmate and:

1. An attorney of this State or any other state when properly identified as such on the outside of the envelope;
2. Offices of the Federal or State Public Defender;
3. The Office of the Attorney General;
4. Federal, State, county and municipal courts;
5. Federal, State, county and municipal court judges;
6. Offices of Legal Services;
7. Legal assistance clinics managed by accredited law schools of this or any other state;
8. The Administrative Office of the Courts;
9. Offices of the Federal, State or county Prosecutor;
10. The Bureau of Risk Management, New Jersey Department of the Treasury;
11. The Internal Affairs Unit, Department of Corrections;
12. The Office of the Ombudsman, Department of Corrections; and
13. The Office of Administrative Law.

“Legal material” means papers or documents that are required to be filed with the court and served upon opposing parties. Legal material includes:

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

9. Summons; and

10. Complaints.

“Mechanical restraints” means restraining devices such as, but not limited to, handcuffs, flex cuffs, leg irons, and belly chains.

“News media representative” means an individual with valid press credentials who provides any means of communication to the public.

“Non-asterisk offense” means a prohibited act that is considered less serious and results in a less severe sanction.

“Non-contact visit” means a visit between an inmate and a visitor where there is a barrier, such as, but not limited to, a window or wall between the inmate and the visitor.

“Non-deadly force” means force which is not likely to cause death or serious bodily harm.

“Non-permissible property” means property that is not identified, or exceeds the permitted amount indicated on a list of permissible property. Examples of non-permissible property include, but are not limited to, an unauthorized item received by an inmate through the mail or from a source of sale, an item retained by the inmate who receives notice that such item has been deleted from the permissible property list, or an item the inmate has in his or her possession that was permitted in a certain unit or facility that is not permitted in another unit or 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;
3. Escape history;
4. History of correctional facility violence;
5. Prior felony convictions (initial only);
6. Education (initial only);
7. Employment (initial only);
8. Age;
9. Number of disciplinary reports (reclassification only);
10. Most severe disciplinary infraction received (reclassification only);
11. Program participation (reclassification only); and
12. System overrides.

“On-the-spot correction” means the immediate imposition of a sanction upon an inmate for the violation of a minor prohibited act.

“Passive canine search” means a search conducted by a canine team consisting of a handler(s) and a dog(s) specially trained to discover and passively indicate to the handler(s) the presence of various substances and/or materials.

“Pat search” means a thorough search of a fully-clothed inmate, including the clothing and personal property in the inmate’s possession.

“Personal information” means an individual’s first name or first initial and last name that is linked with any one or more of the following data elements:

1. Social Security number;
2. Driver’s license number or State identification card number; or
3. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

Dissociated data that, if linked, would constitute personal information is personal information if the means to link the dissociated data were accessed in connection with access to the dissociated data. Personal information shall not include publicly available information that is lawfully made available to the general public from Federal, state or local government records, or widely distributed media (see N.J.S.A. 56:8-161).

“Prehearing detention” means removal of an inmate from the general population pending an investigation and a hearing into an alleged violation of a prohibited act.

“Prison Complex” means state correctional facilities designated to house inmates serving prison sentences.

“Probable cause” means reasonable ground(s) of suspicion, supported by circumstances sufficiently strong to warrant a cautious person to believe that criminal activity is taking place.

“Prohibited act” means conduct in violation of rules and regulations which will result in the imposition of sanctions.

“Protective custody” means confinement to a secure unit designated to restrict or limit an inmate’s activities and contacts with others, in order to provide protection to the inmate from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, reports from an informant(s) or other reliable source(s) of information.

“Reasonable suspicion” means a belief that an action is necessary based upon specific and articulable facts that, taken together with rational inferences from those facts, reasonably support a conclusion.

“Regional institution” means the correctional facility designated to provide support services to a residential community

program, such as, but not limited to, medical, security, administration, disciplinary returns and parole hearing scheduling.

“Relative” means:

1. Parent;
2. Legal guardian;
3. Partner in a civil union couple;
4. Spouse;
5. Domestic partner;
6. Child; or
7. Sibling.

“Scanning/testing device” means a mechanical and/or electronic instrument used to identify or to detect certain substances and materials.

“Scanning/testing device operator” means an individual specially trained and authorized by the Department to operate a scanning/testing device.

“Scanning/testing device search” means a search of a person or object by exposure to a mechanical and/or electronic instrument used to detect certain substances and materials.

“Security threat group” means a group of inmates possessing common characteristics, interests and goals which serve to distinguish the inmates from other inmates or groups of inmates and which, as a discrete entity, poses a threat to the safety of staff, other inmates or the community and to the orderly operation of the correctional facility.

“Shift Commander” means the custody staff member holding the rank of Sergeant or higher responsible for the maintenance of security during a tour of duty in a correctional facility or unit.

“Special Investigations Division,” prior to November 17, 1999 known as the Internal Affairs Unit, means the unit responsible for conducting investigations at the discretion of the Commissioner or designee.

“Special needs inmate” means an inmate who suffers a DSM IV, axis I and/or axis II disorder which interferes with the inmate’s ability to meet the functional requirements of prison life without mental health treatment.

“Staff” means all personnel who are hired by the Department of Corrections as employees.

“State” (upper case “S”) means the State of New Jersey; “state” (lower case “s”) means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

“State DNA Databank” means the repository of DNA samples collected under the provisions of the DNA Database and Databank Act of 1994 (N.J.S.A. 53:1-20.17 et seq.).

“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 possessions.

“Suicide watch” means monitoring the activities, emotional status and behavior of inmates who are identified as emotionally troubled, mentally disturbed or otherwise deemed likely to inflict physical injury or death upon themselves.

“Youth Complex” means State correctional facilities designated to house young adult offenders pursuant to N.J.S.A. 30:4-146.

“Zero Tolerance Drug/Alcohol Policy” means a zero tolerance for the possession/sale/use by State prison inmates of any drugs, intoxicants or narcotic paraphernalia not prescribed for the inmate by medical or dental staff. This policy establishes that inmates found guilty of drug/alcohol related prohibited acts as set forth in N.J.A.C. 10A:4-5.1(c) shall have their contact visit privileges terminated while housed in New Jersey State prisons and correctional facilities in addition to being subject to administrative action and program requirements in accordance with N.J.A.C. 10A:4, Inmate Discipline.

“Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy” means a zero tolerance for the misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device that is not authorized for use or retention. This policy establishes that inmates who are found guilty of an electronic communication device related prohibited act as set forth in N.J.A.C. 10A:4-4.1, 5.1, and 12 shall have their contact visit privileges terminated and shall be ineligible for consideration for any custody status lower than medium custody until after the contact visit privileges are reinstated in addition to being subject to administrative action and program requirements in accordance with N.J.A.C. 10A:4, Inmate Discipline.

Amended by R.1992 d.269, effective July 6, 1992.  
See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Revised definition “youth complex”.  
Amended by R.1993 d.246, effective June 7, 1993.  
See: 25 N.J.R. 1043(a), 25 N.J.R. 2591(b).  
Amended by R.1998 d.364, effective July 20, 1998.  
See: 30 N.J.R. 1367(b), 30 N.J.R. 2618(b).

In “Legal correspondence”, inserted a new 10 and recodified former 10 through 12 as 11 through 13.  
Amended by R.1998 d.526, effective November 2, 1998.  
See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

Added new “Zero Tolerance Drug/Alcohol Policy” definition. Administrative correction.  
See: 31 N.J.R. 1066(a).  
Amended by R.1999 d.187, effective June 7, 1999 (operative July 1, 1999).  
See: 31 N.J.R. 831(a), 31 N.J.R. 1487(b).

Inserted “Special needs inmate”.  
Amended by R.2000 d.33, effective January 18, 2000.  
See: 31 N.J.R. 3577(a), 32 N.J.R. 303(b).

Deleted “Internal Affairs Unit”; and inserted “Special Investigations Division”.

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

Added “Administrator”, “Associate Administrator”, “Canine search”, “Passive canine search”, “Scanning/testing device”, “Scanning/testing device operator” and “Scanning/testing device search”; in “Shift supervisor”, substituted “Commander” for “supervisor” and substituted “custody staff member” for “correction officer”; deleted “Superintendent”.  
Amended by R.2003 d.176, effective May 5, 2003.  
See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

Added “Business day(s)”, “Calendar day(s)”, “Immediate family” and “Internal Management Procedures”; rewrote “Capital Sentence Unit (C.S.U.)”, “Constant observation”, “Custody status”, “Deadly force”, “Division of Programs and Community Services”, “Inmate handbook”, “Lawfully confined” and “Regional institution”; in “Shift Commander”, inserted “holding the rank of Sergeant or higher” following “custody staff member”; in “Special Investigations Division”, inserted “or designee” following “Commissioner”.  
Amended by R.2004 d.180, effective May 3, 2004.  
See: 36 N.J.R. 6(b), 36 N.J.R. 2241(b).

In “Institutional Classification Committee (I.C.C.)”, substituted “committee of” for “group of staff members within a” and “staff members” for “that is” following “correctional facility”; rewrote “Inter-Institutional Classification Committee (I.I.C.C.)”.  
Amended by R.2004 d.395, effective October 18, 2004.  
See: 36 N.J.R. 3225(b), 36 N.J.R. 4826(a).

Added “DNA”, “DNA sample” and “State DNA Databank”.  
Emergency amendment, R.2005 d.435, effective November 15, 2005, (to expire on January 14, 2006).  
See: 37 N.J.R. 4575(a).

Added definitions “Electronic communication device” and “Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy”.  
Adopted concurrent amendment, R.2006 d.58, effective January 11, 2006.  
See: 37 N.J.R. 4575(a), 38 N.J.R. 993(a).

Provisions of R.2005, d.435, adopted without change.  
Amended by R.2006 d.151, effective May 1, 2006.  
See: 38 N.J.R. 96(a), 38 N.J.R. 1836(a).

At the end of the introductory paragraph, added “unless the context clearly indicates otherwise”; in the definition of “Detainer”, substituted “U.S. Immigration and Customs Enforcement” for “Immigration and Naturalization Service”; rewrote the definition of “Inmate Liaison Committee”; in the definition for “Legal Correspondence”, in 4 and 5, substituted a comma for “and”, and inserted “; county and municipal”, and in 9, substituted a comma for “or”, inserted “or county”; and added the definitions for “Non-contact visit” and “Staff”.  
Amended by R.2006 d.398, effective November 20, 2006.  
See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In definitions “Zero Tolerance Drug/Alcohol Policy” and “Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy”, updated N.J.A.C. references.  
Amended by R.2007 d.17, effective January 16, 2007.  
See: 38 N.J.R. 4159(a), 39 N.J.R. 216(a).

Inserted definitions “Domestic partner”, “Family member”, and “Relative”; and deleted definition “Immediate family”.  
Amended by R.2007 d.64, effective February 20, 2007.  
See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Added definition “Personal information”.  
Amended by R.2007 d.127, effective May 7, 2007.  
See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

Added definitions “Non-permissible property” and “State”.  
Amended by R.2007 d.198, effective July 2, 2007.  
See: 39 N.J.R. 834(b), 39 N.J.R. 2538(a).

Added definitions “Counsel substitute” and “Disciplinary detention”.  
Amended by R.2007 d.199, effective July 2, 2007.  
See: 39 N.J.R. 747(a), 39 N.J.R. 2537(a).

In definition “Detainer”, inserted “(ICE)”.  
Amended by R.2007 d.226, effective August 6, 2007.  
See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Added definition “Departmental Research Review Board (DRRB)”.  
Amended by R.2007 d.268, effective August 20, 2007.  
See: 39 N.J.R. 1622(a), 39 N.J.R. 3539(a).

Added definition "Community Corrections Classification Committee (C-4)".

Amended by R.2007 d.315, effective October 15, 2007.

See: 39 N.J.R. 2442(a), 39 N.J.R. 4402(a).

Added definitions "Civil union" and "Civil union couple"; in definition "Family member", added new 3 and recodified former 3 through 8 as 4 through 9; and in definition "Relative", added new 3 and recodified former 3 through 6 as 4 through 7.

Amended by R.2007 d.379, effective December 17, 2007.

See: 39 N.J.R. 2445(a), 39 N.J.R. 5340(b).

In definition "Institutional Classification Committee (I.C.C.)", inserted the last sentence; substituted definition "Institutional Classification Reception Committee (I.C.R.C.)" for definition "Inter-Institutional Classification Committee (I.I.C.C.)"; and in definition "Objective classification", deleted paragraphs 5 through 7, recodified former paragraphs 8 through 14 as 5 through 11, in paragraph 11, inserted "and" at the end, deleted paragraph 15, and recodified paragraph 16 as 12.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Deleted definition "Capital Sentence Unit (C.S.U.)".

#### Case Notes

Regulation which classifies inmates who do not have any funds in their account and who cannot work, but are able to receive funds from outside sources as "nonindigent," thus requiring them to use funds from outside sources for payment of legal photocopying and medical care, did not violate equal protection clause. *Robinson v. Fauver*, D.N.J.1996, 932 F.Supp. 639.

In an inmate's appeal of disciplinary action arising from a fight he was involved in, the appellate court rejected the Department of Correction's blanket policy of keeping confidential all security camera videotapes in order to preclude inmates from learning camera angles, locations, or blind spots, and directed the Department to develop a rec-

ord on remand regarding the need for confidentiality of the particular videotape. *Robles v. New Jersey Dept. of Corrections*, 388 N.J. Super. 516, 909 A.2d 755, 2006 N.J. Super. LEXIS 295 (App.Div. 2006).

#### 10A:1-2.3 Chief Executive Officer

Pursuant to N.J.S.A. 30:1B-1 et seq., the Chief Executive Officer of the Department of Corrections is the Commissioner of Corrections.

#### 10A:1-2.4 Rulemaking and exemption authority

(a) The Commissioner, pursuant to N.J.S.A. 30:1B-1 et seq., is authorized to formulate, adopt, issue and promulgate rules and regulations for the administration of correctional facilities, community programs and operational units within the Department of Corrections.

(b) The Commissioner is authorized to determine all matters of policy and regulate the administration of correctional facilities, community programs and operational units and modify policies and regulations so that same can function effectively within the Department of Corrections.

(c) The Commissioner may exempt a correctional facility, community program or operational unit from adherence to a rule or certain requirements of a rule in instances when strict compliance with a rule or all of its requirements would result in:

(Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)

3. An investigation, as may be appropriate, will follow the filing of a grievance. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a grievance.

4. In most cases a written determination as to the validity of the grievance and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the grievant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the grievances filed.

6. The right of a person to a prompt and equitable resolution of the grievance filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA grievance with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

#### Case Notes

Inmates' ability to challenge statutory imposition of co-payments for medical care, via disability discrimination grievance procedures, adequately protected inmates' due process rights. *Mourning v. Correctional Medical Services, (CMS) of St. Louis, Missouri*, 300 N.J.Super. 213, 692 A.2d 529 (A.D.1997).

#### 10A:1-3.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

ADA Coordinator  
New Jersey Department of Corrections  
PO Box 863  
Trenton, New Jersey 08625-0863

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All grievances alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 10A:1-3.5 through 3.8.

#### 10A:1-3.5 Grievance procedure

A grievance alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C. 10A:1-3.4 within 30 days of the grievant becoming aware of the alleged violation. A grievance alleging employment discrimination will be processed pursuant to the rules of the Department of Personnel, N.J.A.C. 4A:7-1.1 through 3.4, if those rules are applicable.

#### 10A:1-3.6 Grievance contents

(a) A grievance submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 10A:1-3.7.

(b) A grievance submitted pursuant to this subchapter shall include the following information:

1. The name of the grievant, and/or any alternate contact person designated by the grievant to receive communication or provide information for the grievant;

2. The address and telephone number of the grievant or alternate contact person; and

3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

#### 10A:1-3.7 Americans with Disabilities Act Grievance Form 100

The following Americans with Disabilities Act Grievance Form 100 may be utilized for the submission of a grievance pursuant to this subchapter:

Americans with Disabilities Act Grievance Form 100

Date: \_\_\_\_\_

Name of grievant: \_\_\_\_\_

Address of grievant: \_\_\_\_\_

Telephone number of grievant: \_\_\_\_\_

Name, address and telephone number

of alternate contact person: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Agency alleged to have denied access:

Department: \_\_\_\_\_

Division: \_\_\_\_\_

Bureau or office: \_\_\_\_\_

Location: \_\_\_\_\_

Incident or barrier: \_\_\_\_\_

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

A copy of the above Form 100 may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 10A:1-3.4.

Administrative change.  
 See: 27 N.J.R. 4717(a).

### 10A:1-3.8 Investigation

(a) Upon receipt of a grievance submitted pursuant to this subchapter, the designated ADA coordinator will notify the grievant of the receipt of the grievance and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the grievance, if practicable or unless a later date is agreed to by the grievant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the grievance, if practicable or unless a later date is agreed to by the grievant, which decision shall be transmitted to the grievant and/or the alternate contact person if so designated by the grievant.

## SUBCHAPTERS 4 THROUGH 9. (RESERVED)

## SUBCHAPTER 10. RESEARCH

### 10A:1-10.1 General research provisions

(a) No medical, pharmaceutical or cosmetic experiments or research shall be conducted involving the use of inmates of the New Jersey Department of Corrections except as provided by court order, consent decree, or other legal processes.

(b) The New Jersey Department of Corrections may authorize academic, nonmedical, nonpharmaceutical, and non-cosmetic research projects that are conducted in accordance with this subchapter.

(c) Inmates shall not be permitted to receive compensation of any kind for their research participation from any agency or entity conducting a research project.

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

In (a), deleted "or parolees" following "use of inmates".

Amended by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Section was "Medical research or experimentation". In (b), inserted "academic," and inserted a comma following "nonpharmaceutical"; and added (c).

### 10A:1-10.2 Departmental Research Review Board (DRRB)

The Commissioner or designee authorizes the use of a Departmental Research Review Board (DRRB) to be responsible for the review of research requests and to provide recommendations for approval or disapproval of such research requests.

New Rule, R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Former 10A:1-10.2, Procedure for submitting a request to conduct nonmedical, nonpharmaceutical and noncosmetic research projects, recodified to 10A:1-10.3.

### 10A:1-10.3 Procedure for submitting and handling requests to conduct academic, nonmedical, nonpharmaceutical, and noncosmetic research projects to the Departmental Research Review Board (DRRB)

(a) Any person(s) or agency(ies) who wishes to conduct academic, nonmedical, nonpharmaceutical, or noncosmetic research projects shall complete and submit to the Department of Corrections, the research request application package which is available by contacting:

Departmental Research Review Board  
 Office of Policy and Planning  
 New Jersey Department of Corrections  
 PO Box 863  
 Trenton, New Jersey 08625-0863