

(b) Except for confirming transfers to and from Administrative Segregation, the I.I.C.C. is not responsible for the post-reception decision regarding the assignment of female inmates. Female inmates shall be assigned to the Edna Mahan Correctional Facility for Women.

(c) The I.I.C.C. shall also have the following responsibilities to:

1. Decide requests for transfer to correctional facilities within the Division of Operations;
2. Assign parole violators, escapees and inter-state compact transferees;
3. Reassign inmates referred back to the I.I.C.C. by an Institutional Classification Committee (I.C.C.) for administrative transfer;
4. Confirm assignment of State sentenced inmates directly to the county jails under contractual agreement to house them;
5. Confirm all transfers to and from Administrative Segregation;
6. Recommend inmates who are considered appropriate for Protective Custody (see N.J.A.C. 10A:5);
7. Review emergency transfers (see N.J.A.C. 10A:5); and
8. Review any reduce custody overrides of inmates by the Institutional Classification Committee (I.C.C.).

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

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

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

Revised (b).

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

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

In (a), substituted "correctional facility, of male inmates" for "facility, of adult male inmates" and "custody of the Commissioner, Department of Corrections" for "Garden State Reception and Youth Correctional Facility by the Courts"; rewrote (b); in (c)1, substituted "Division of Operations" for "Prison Complex"; in (c)5, substituted "Confirm all transfers to or from" for "Review assignments to Vroom" and deleted a N.J.A.C. reference; in (c)7, deleted reference to transfers to Vroom Readjustment Unit; rewrote (c)8; and deleted (d), relating to assignment of female inmates.

10A:9-6.2 Composition of the Inter-Institutional Classification Committee (I.I.C.C.)

(a) The Director of the Division of Operations shall serve as permanent Chairperson of the Inter-Institutional Classification Committee (I.I.C.C.).

(b) Two Assistant Superintendents appointed by the Director, Division of Operations, shall serve as members of the I.I.C.C. on a quarterly basis.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

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

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

Revised (a).

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

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

In (a), changed official serving as Chair and deleted provision specifying other members of the I.I.C.C.; and rewrote (b).

10A:9-6.3 Criteria for assignment of inmates

(a) Decisions regarding the degree of custody required for each inmate and the correctional facility of assignment shall be made by the Inter-Institutional Classification Committee (I.I.C.C.) while the inmate is in the reception process. These decisions shall be based on:

1. Length of sentence;
2. Type of offense;
3. Age of inmate;
4. Previous history;
5. Review of pertinent presentence investigation report documents;
6. The objective classification score;
7. The security level that matches the inmate's scored custody status; and
8. The Department of Corrections housing security level designation assigned to each correctional facility.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

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

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

Revised text.

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

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

Inserted (a)6 through (a)8; and deleted (b) through (k), providing criteria for assignment to specified correctional facilities.

10A:9-6.4 Transfers

(a) Upon referral from an Institutional Classification Committee (I.C.C.), the Inter-Institutional Classification Committee (I.I.C.C.) shall make decisions on inmate requests for transfer to another correctional facility.

(b) The I.I.C.C. shall confirm all transfers of State sentenced inmates to county jails under contract to house them.

(c) The I.I.C.C. shall make decisions on referrals from an I.C.C. in cases where an inmate's correctional facility adjustment and/or custody status shall indicate that a transfer to another correctional facility is appropriate.

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

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

In (a), deleted "within the Prison Complex" following "another correctional facility"; and in (b), deleted "from the Prison and/or Youth Complex" following "sentenced inmates".

10A:9-6.5 Emergency transfers

(a) Administrators may effect the transfer of inmates within the same complex, prior to review by Inter-Institutional Classification Committee (I.I.C.C.) only for reasons of emergency. (See N.J.A.C. 10A:4-9.21 and 9.22.)

(b) If, in the opinion of the Administrator of the correctional facility in which the inmate is housed, an immediate transfer is necessary, the Administrator shall notify the Assistant Commissioner or Director, Division of Operations of the proposed transfer. With the verbal approval either of the Assistant Commissioner or the Director, the transfer shall be made as soon as possible. If both the Assistant Commissioner and Director are unavailable, the Chief of Staff, Department of Corrections, shall be contacted for approval.

(c) Form 852-I AUTHORIZATION FOR EMERGENCY TRANSFER shall be utilized for disciplinary or administrative transfers of an emergency nature. Two copies of Form 852-I shall be forwarded to the individual from whom verbal approval was secured within three working days of the verbal approval.

(d) In determining whether an emergency transfer is necessary the Administrator shall consider the following factors, but is not limited to these factors:

1. The safety and welfare of the inmate;
2. The safety of other inmates and staff; and
3. The safe, orderly and secure operation of the correctional facility.

(e) All emergency transfers shall be evaluated on the Reclassification Instrument at the receiving facility as soon as possible and reviewed by the I.I.C.C. at its next regularly scheduled meeting.

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

In (a), amended N.J.A.C. reference; and in (b), amended references to relevant officials.

Amended by R.2001 d.425, effective November 19, 2001.
See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

In (e), inserted "evaluated on the Reclassification Instrument at the receiving facility as soon as possible and" following "transfers shall be"; substituted references to Administrators for references to Superintendents throughout.

SUBCHAPTER 7. SPECIAL CLASSIFICATION COMMITTEE (S.C.C.)

10A:9-7.1 Responsibilities of the Special Classification Committee (S.C.C.)

The Special Classification Committee (S.C.C.) shall be responsible for considering any inter-complex transfers.

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

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

Substituted "any inter-complex transfers" for list of specified transfers.

10A:9-7.2 Composition of the Special Classification Committee (S.C.C.)

(a) The Director of the Division of Operations shall serve as permanent Chairperson of the Special Classification Committee (S.C.C.). In addition, the S.C.C. shall be made up of a staff member from the Commissioner's Office and a Superintendent or Assistant Superintendent from the Prison and Youth Complexes.

(b) The Superintendent or the Assistant Superintendent of the Adult Diagnostic and Treatment Center (A.D.T.C.) shall participate as a member when transfer cases involving the A.D.T.C. are considered by the S.C.C.

(c) The Superintendents or Assistant Superintendents who represent the Prison and Youth Correctional Complexes on the S.C.C. shall alternate annually with other Superintendents or Assistant Superintendents of their respective Complexes so that their terms of service shall be no longer than one year at a time.

(d) A Superintendent may designate a substitute member from a level not lower than Assistant Superintendent to represent his or her correctional facility at a S.C.C. meeting in the event he or she is unable to attend.

(e) The S.C.C. shall meet at least once a month on a date that is designated by the Chairperson at alternate sites so that no individual member is unduly inconvenienced.

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

In (a), changed official serving as Chair; and in (b), deleted reference to the Deputy Director of the Division of Juvenile Services and substituted "the A.D.T.C." for "their correctional facilities".

10A:9-7.3 Procedure for initiating transfer requests

(a) Requests for transfer to another Complex within the Department of Corrections may be initiated by the inmate or by the Superintendent of the correctional facility in which the inmate is confined.

(b) Requests for transfer also may be initiated by the Commissioner, Chief of Staff or Assistant Commissioner of the Division of Operations.

(c) All requests for transfer and the reason(s) therefor shall be submitted, in writing, to the appropriate Institutional Classification Committee (I.C.C.). No request shall be considered without an accompanying statement of reasons.

(d) Requests for transfer received from attorneys or other third parties on behalf of an inmate shall not be considered. All third party individuals making such requests shall be advised that the inmate must initiate the request. However, third parties shall be advised that they may submit written comments to the appropriate I.C.C. in conjunction with an inmate request, all of which shall be considered by the I.C.C. and the Special Classification Committee (S.C.C.) when they review the inmate's request.

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

In (b), changed officials who may initiate requests for transfer.

10A:9-7.4 Procedure for reviewing nonemergency transfer requests

(a) All requests for nonemergency transfers are submitted first to the Institutional Classification Committee (I.C.C.) at the correctional facility where the inmate is housed.

(b) When the request is initiated by the Superintendent or any person other than the inmate authorized by N.J.A.C. 10A:9-7.3, the I.C.C. shall send a written notice to the inmate advising him or her that a transfer request has been made and advising him or her that the request will be considered at its next regularly scheduled meeting. The I.C.C. shall also advise the inmate that he or she may submit written comments to the I.C.C. regarding the proposed transfer.

(c) The I.C.C. may direct that the inmate appear at its meeting if the Committee determines that an appearance is necessary.

(d) After considering all information which the I.C.C. shall deem relevant, the Committee shall render a decision to recommend or deny the transfer request. A notice of

decision and a statement of reasons therefor shall be sent to the inmate and to the Superintendent.

(e) If the I.C.C. recommends approval of the transfer request, the Superintendent shall submit the recommendation to the Special Classification Committee (S.C.C.) together with a full set of classification materials and any other information upon which the recommendation was made. The Superintendent shall also submit a letter to the Chairperson of the S.C.C. which shall state whether the Superintendent supports the I.C.C. recommendation and the reasons therefor.

(f) The S.C.C. shall consider all information submitted at its next regularly scheduled meeting and shall determine whether the requested transfer shall be approved.

1. The inmate shall not appear at this meeting.
2. The S.C.C. shall determine the appropriate correctional facility to which the inmate shall be assigned if the transfer is approved.

(g) The S.C.C. shall send a written notification of its decision and the reasons therefor to:

1. The Superintendent;
2. The authorized person who made the request; and
3. The I.C.C.

(h) The I.C.C. shall give written notice of the final decision to the inmate.

10A:9-7.5 Procedure for reviewing emergency transfer requests

(a) Whenever, in the opinion of the Superintendent of the correctional facility in which the inmate is housed, an immediate transfer is necessary, the Superintendent shall notify the Assistant Commissioner or Director Division of Operations.

(b) With the verbal approval either of the Assistant Commissioner or the Director, the transfer shall be made as soon as possible. If both the Assistant Commissioner and Director are unavailable, the Chief of Staff, Department of Corrections, shall be contacted for approval.

(c) Form 852-I AUTHORIZATION FOR EMERGENCY TRANSFER shall be utilized for disciplinary or administrative transfers of an emergency nature. Two copies of Form 852-I shall be forwarded to the individual from whom verbal approval was secured within three working days of the verbal approval.

(d) In determining whether an emergency transfer is necessary, the Superintendent shall consider the following factors but is not limited to these factors.

1. The safety and welfare of the inmate;

2. The safety of other inmates and staff; and
3. The safe, orderly and secure operation of the correctional facility.

(e) The Superintendent shall refer the emergency transfer of the inmate to the Institutional Classification Committee (I.C.C.) for consideration at its next regularly scheduled meeting. The I.C.C. shall make its review and recommendation and shall then refer the transfer to the Special Classification Committee (S.C.C.).

(f) When the S.C.C. confirms or fails to confirm the transfer, it shall notify in writing the following:

1. The inmate;
2. The Superintendent; and
3. The I.C.C.

(g) A copy of the written notice shall be placed in the inmate's file.

(h) If the S.C.C. fails to confirm the transfer, the correctional facility to which the inmate was transferred shall make arrangements to return the inmate to his or her previous correctional facility as soon as possible.

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

In (a) and (b), changed officials to be notified of need of transferred and who may approve transfers.

10A:9-7.6 Criteria for reviewing transfer requests

(a) In reviewing requests for transfer or reassignment to correctional facilities in other Complexes, the Institutional Classification Committee (I.C.C.) and the Special Classification Committee (S.C.C.) shall consider all relevant factors including, but not limited to:

1. Disciplinary reports;
2. Correctional facility adjustment;
3. Progress in programs;
4. Nature and circumstances of present offense(s);
5. Records from previous confinement(s);
6. Current psychological and psychiatric reports;
7. History of escape, attempted escape or propensity for escape;
8. Educational needs and history;
9. Prior offense record;
10. Drug dependency or involvement;
11. Age; and
12. Medical condition.

10A:9-7.7 Procedures for transfers

Upon approval of a requested transfer by the Special Classification Committee (S.C.C.), the sending correctional facility shall arrange for processing the inmate through the proper identification and change of number procedures, if appropriate, and then coordinate with the receiving correctional facility the date and time of the transfer of the inmate along with his or her records and property.

SUBCHAPTER 8. SPECIAL CLASSIFICATION REVIEW BOARD

10A:9-8.1 Responsibilities

(a) The Special Classification Review Board (S.C.R.B.) shall decide whether inmates sentenced under N.J.S.A. 2C:47 and 2A:164 shall be recommended for parole, as required by N.J.S.A. 2C:47-5 and 2A:164-8.

(b) Any person committed to confinement under the terms of this chapter shall be released under parole supervision when it shall appear to the satisfaction of the State Parole Board, after recommendation by the Special Classification Review Board appointed by the Commissioner that such person is capable of making an acceptable social adjustment in the community.

10A:9-8.2 Composition of the Special Classification Review Board (S.C.R.B.)

(a) The Commissioner shall appoint at least eight members to serve on the Special Classification Review Board (S.C.R.B.), two of whom may be Department of Corrections employees. The S.C.R.B. panels, which conduct in-person interviews, shall be composed of no less than two S.C.R.B. members and no more than four S.C.R.B. members.

(b) Each S.C.R.B. panel shall be composed of the following:

1. A representative from an administrative unit within the Department of Corrections; and

2. Up to three persons from outside of the Department of Corrections, one of whom must have a master's degree in psychology and one of whom must have a professional background, such as a master's degree in any field.

(c) Terms of membership shall be three years and shall be staggered so that no more than two members are replaced or reappointed in any one year.

(d) Members shall elect a Chairperson and Vice Chairperson annually at the S.C.R.B.'s July meeting. These offices shall be rotated among members, when practicable.

New Rule, R.1990 d.195, effective April 2, 1990.

See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).

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

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

In (b)3, substituted "correctional facility" for "institution"; and in (c), substituted "correctional facility" for "institution" and "Assistant Commissioner, Division of Operations" for "Deputy Commissioner".

SUBCHAPTER 5. COMMUTATION AND WORK TIME

10A:9-5.1 Authority

(a) Commutation credit is awarded to inmates pursuant to N.J.S.A. 30:4-140, which provides:

1. For every year or fractional part of a year of sentence imposed upon any person committed to any State correctional facility for a minimum-maximum term there shall be remitted to him or her from both the maximum and minimum terms of his or her sentence, for continuous orderly deportment, the progressive commutation credits indicated in the schedule herein.

2. Commutation credits are not awarded until after the expiration of the mandatory minimum portion of the sentence. When the mandatory minimum part of the sentence has been served, commutation credits are awarded on the full sentence.

3. When a sentence contains a fractional part of a year in either the minimum or maximum thereof, then commutation credits in reduction of such fractional part of a year shall be calculated at the rate set out in the schedule for each full month of such fractional part of a year of sentence.

4. No commutation credits shall be calculated as provided for in this subchapter on time served by any person in custody between his or her arrest and the imposition of sentence.

5. In case of any flagrant misconduct, commutation credits may be declared to be forfeited pursuant to N.J.A.C. 10A:9-5.3.

(b) Work time credit is awarded to inmates pursuant to N.J.S.A. 30:4-92, which provides:

1. The inmates of all correctional, charitable, hospital, relief and training institutions within the jurisdiction of the State Board of Institutional Trustees (Commissioner) shall be employed in such productive occupations as are consistent with the inmate's health, strength and mental capacity and shall receive such compensation therefor as the State Board of Institutional Trustees (Commissioner) shall determine.

2. Compensation for inmates of correctional facilities may be in the form of cash or remission of time from sentence or both. Such remission from the time of

sentence shall not exceed one day for each five days of productive occupation, but remission granted under this section shall in no way affect deductions for good behavior or provided by law.

3. All inmates classified as minimum or community custody status and who are considered sufficiently trustworthy to be employed in honor camps, farms or details shall receive further remission of time from their sentences at the rate of three days per month for the first year of such employment and five days per month for the second and each subsequent year of such employment.

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

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

Revised (a).

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

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

In (b)3, substituted "minimum or community custody status" for "minimum security".

Petition for Rulemaking.

See: 30 N.J.R. 4291(a).

Case Notes

Murder defendant's 30-year mandatory minimum term of imprisonment was not subject to reduction through application of commutation and work credits. *Merola v. Department of Corrections*, 285 N.J.Super. 501, 667 A.2d 702 (A.D.1995), certification denied.

10A:9-5.2 Exceptions; time in custody; failure to work

(a) No commutation or work credits shall be given to any inmate sentenced for sex offenses under the provisions of N.J.S.A. 2A:164. However, those inmates who have been sentenced or resentenced under N.J.S.A. 2C are eligible to receive commutation and work credits from the effective date of that law, September 1, 1979.

(b) In all cases where the sentence includes a mandatory minimum term of imprisonment, commutation credits, work credits, gap time and minimum credits may not be applied to the mandatory minimum term, but may only reduce the maximum term.

(c) In no case may commutation credits, work credits, gap time and minimum credits be used to reduce a maximum sentence to a period of incarceration that is less than the judicial or statutory mandatory minimum term.

(d) No commutation credits shall be given for any time served in custody between arrest and imposition of sentence. Work credits may be given for work performed in the county jail prior to sentencing if the work time is verified in writing by the County Jail Superintendent.

(e) Work credits may not be applied in cases where an inmate does not work because of choice, unavailability of sufficient job assignments, medical lay-in (except for job related injuries), court remand, disciplinary lock-up or similar incapacity. Inmates who refuse to perform assigned work shall receive disciplinary charges in accordance with N.J.A.C. 10A:4.