

TITLE 10A  
CORRECTIONS

CHAPTER 1  
ADMINISTRATION, ORGANIZATION,  
AND MANAGEMENT

Authority

N.J.S.A. 30:1B-6, 30:1B-10, 30:4-123.47.c, and 52:27EE-26; the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq.; and the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§ 15601 et seq.

Source and Effective Date

R.2015 d.191, effective November 9, 2015.  
See: 47 N.J.R. 1863(a), 47 N.J.R. 3028(a).

Chapter Expiration Date

Chapter 1, Administration, Organization, and Management, expires on November 9, 2022.

Subchapter 3, Disability Discrimination Grievance Procedure, is exempt from expiration pursuant to 28 C.F.R. Part 35.

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).

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).

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).

Chapter 1, Administration, Organization and Management, was readopted as R.2003 d.176, effective April 9, 2003. See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

Subchapter 4, Inmate Remedy System, was adopted as new rules by R.2008 d.171, effective June 16, 2008. See: 39 N.J.R. 2188(a), 40 N.J.R. 3718(d).

Chapter 1, Administration, Organization, and Management, was readopted as R.2008 d.190, effective June 17, 2008. See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

Chapter 1, Administration, Organization and Management, was renamed Administration, Organization, and Management by R.2013 d.006, effective January 7, 2013. See: 44 N.J.R. 957(a), 45 N.J.R. 34(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 1, Administration, Organization and Management, was scheduled to expire on June 17, 2015. See: 43 N.J.R. 1203(a).

Chapter 1, Administration, Organization, and Management, was readopted as R.2015 d.191, effective November 9, 2015. 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 (DOC), created by statute in 1976, is a principal Department in the Executive Branch of New Jersey State Government (see N.J.S.A. 30:1B-2). The functions of the DOC 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 DOC.

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".

Amended by R.2011 d.022, effective January 18, 2011.  
See: 42 N.J.R. 2194(a), 43 N.J.R. 188(a).

In the introductory paragraph of (a) and in (a)7, substituted "DOC" for "D.O.C." throughout; and in the introductory paragraph of (a), inserted "(see N.J.S.A. 30:1B-2)".

##### Case Notes

Department of Corrections was authorized to discipline a prisoner, who tested positive for cocaine and opiates upon his return to a State prison after escaping from a halfway house, for violating the Department's regulation prohibiting the use of drugs; under N.J.S.A. 30:1B-3 and N.J.S.A. 30:4-91.3, the Commissioner of Corrections maintains authority over adult offenders committed to State correctional institutions, even at times when they are physically outside prison walls. *Ries v. Dep't of Corr.*, 396 N.J. Super. 235, 933 A.2d 638, 2007 N.J. Super. LEXIS 328 (App.Div. 2007).

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

(a) Pursuant to N.J.S.A. 52:14B-4(f), an interested person may petition for the promulgation of a new rule, or amendment or repeal of any existing 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 petition 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 that may include the text of the suggested new rule or amended rule;
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) A document submitted as a petition for rulemaking shall be reviewed by the Commissioner or designee. The document shall be deemed to be a petition for rulemaking based upon, but not limited to, substantial compliance with (a) through (c) above and the following guidelines, as applicable to the suggested new rule, amended rule or repealed rule (see definition of an "administrative rule" at N.J.S.A. 52:14B-2(e)):

1. The Department has the legal authority to promulgate the suggested rule;

2. The suggested rule has general Departmental application to all similarly situated persons or is intended to have wide, uniform coverage that encompasses a large segment of the regulated population (rather than to a particular circumstance related to a specific occurrence or incident, or to a personal situation, case or litigation proceeding);

3. The suggested rule has continuing effect and applies to future cases only;

4. The suggested rule implements or interprets a law or a general Departmental policy, or describes the function, procedure or practice requirements of a law or a general Departmental policy (rather than applying to an internal management procedure);

5. The suggested rule falls within the purview of the Department of Corrections and does not relate to an intra-agency or inter-agency statement or issue; or

6. The suggested rule falls outside the scope of an inmate's issue, concern, complaint or problem, which is related to a condition of confinement in or an internal management procedure of a correctional facility or unit that must be processed pursuant to N.J.A.C. 10A:1-4, Inmate Remedy System.

(e) When the Commissioner or designee deems the document submitted to be a petition for rulemaking that substantially complies with the provisions of this section, the Department of Corrections shall file for publication with the Office of Administrative Law a notice of receipt of petition for rulemaking in the New Jersey Register pursuant to N.J.A.C. 1:30-4.1(c). A document submitted as a petition for rulemaking that does not substantially comply with the provisions of this section shall not be deemed a petition that requires further agency action.

(f) No later than 60 calendar 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 that 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 calendar 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 calendar days of referring the matter for further deliberations.

(g) Upon conclusion of further deliberations, as established in (f)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 reason(s), or grant the petition and include a statement that the Department shall initiate rulemaking proceedings within 90 calendar 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).

Amended by R.2008 d.190, effective July 21, 2008.

See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

In the introductory paragraph of (a), substituted “Pursuant to N.J.S.A. 52:14B-4(f), an” for “An”, deleted “apply to” following “person may” and inserted “of a new rule, or” and “existing”; in (b)2, substituted “petition” for “proposal”; in (b)3, inserted “that may include the text of the suggested new rule or amended rule”; added new (d); recodified former (d) through (f) as (e) through (g); rewrote (e); in the introductory paragraph of (f), inserted “calendar” and a comma following “Register”, and substituted “that” for “which”; in (f)2 and (f)3, inserted “calendar”; and in (g), substituted “(f)3” for “(e)3” and “reason(s)” for “reasons(s)”, inserted a comma following the first occurrence of “petition” and inserted “calendar”.

Amended by R.2011 d.022, effective January 18, 2011.

See: 42 N.J.R. 2194(a), 43 N.J.R. 188(a).

In (d)2, inserted “to all similarly situated persons”; in (d)3, substituted “to future cases” for “prospectively”; in (d)5, substituted “intra-agency” for “intraagency”, “inter-agency” for “interagency”, and “; or” for a period at the end; and added (d)6.

### 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 Information 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) 292-4036.

(b) Inmates requesting information or services may contact the Corrections Ombudsperson by mail at PO Box 855, Trenton, New Jersey 08625-0855 or by making a toll-free call within a correctional facility, using a pin number that is assigned by the Department of Corrections. This toll-free number is (555) 555-5555. A toll call can also be made to (609) 292-8020.

(c) Requests for government records pursuant to the Open Public Records Act at N.J.S.A. 47:1A-1 et seq. shall be handled in accordance with N.J.A.C. 10A:22.

(d) Pursuant to the Identity Theft Prevention Act at N.J.S.A. 56:11-44 et seq. and related definitions at N.J.S.A. 56:8-161; and in order to prevent identity theft, Departmental staff shall be responsible for safeguarding “personal information” as this term is defined in N.J.A.C. 10A:1-2.2 and for complying with related rules at N.J.A.C. 10A:22-1.5.

Amended by R.1993 d.635, effective December 6, 1993.  
 See: 25 N.J.R. 4552(a), 25 N.J.R. 5475(a).  
 Amended by R.2001 d.455, effective December 3, 2001.  
 See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

In (a), inserted "by assessing the official Department of Corrections website at [www.state.nj.us/corrections](http://www.state.nj.us/corrections)," following "08625-0863".

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), substituted "accessing" for "assessing" preceding "the official Department of Corrections website"; added (c).

Amended by R.2007 d.64, effective February 20, 2007.  
 See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Added (d).  
 Amended by R.2008 d.190, effective July 21, 2008.  
 See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

Rewrote (b).  
 Administrative change.  
 See: 43 N.J.R. 1344(a).  
 Administrative change.  
 See: 45 N.J.R. 331(a).

#### 10A:1-1.4 Reimbursement for costs of copying

(a) Pursuant to N.J.S.A. 47:1A-5, correctional facilities and other administrative units within the Department of Corrections may charge the following fees for copying records deemed to be public:

\$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger.

(b) Government agencies are exempt from cost of copying of documents.

(c) The copying fees for documents or records other than records deemed to be public shall also be based on the fee schedule in (a) above.

(d) When or if fees for the copying of public records change in accordance with N.J.S.A. 47:1A-5, these changes shall be published as a notice of administrative change in the New Jersey Register.

New Rule, R.1993 d.635, effective December 6, 1993.  
 See: 25 N.J.R. 4552(a), 25 N.J.R. 5475(a).  
 Administrative change.  
 See: 37 N.J.R. 80(b).  
 Administrative change.  
 See: 42 N.J.R. 2806(b).

#### 10A:1-1.5 Rulemaking activity

(a) Department of Corrections rules are promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

(b) The New Jersey Administrative Code (N.J.A.C.) is the official publication of the Office of Administrative Law and contains all effective rules adopted in accordance with the Administrative Procedure Act by agencies of the State of New Jersey. The rules of the Department of Corrections are established within N.J.A.C. Title 10A, Corrections.

(c) The public may make submissions or requests regarding the promulgation, amendment and repeal of any Departmental rules in accordance with N.J.A.C. 10A:1-1.2, Procedure to petition for rulemaking.

New Rule, R.2001 d.455, effective December 3, 2001.  
 See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

#### 10A:1-1.6 Notice of a proposed rule and opportunity to be heard

(a) A notice of a proposed rule may consist of:

1. A proposed new rule;
2. A proposed amendment to modify, alter or revise an existing rule;
3. A proposed repeal of a rule; or
4. A proposed readoption of a rule.

(b) The Department of Corrections provides the following four types of publicity for a notice of a rule proposal:

1. Publication in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all Departmental rule proposals and adoptions;

2. Distribution of the notice or a statement of the substance of the proposed rulemaking activity to the news media maintaining a press office in the New Jersey State House Complex;

3. Posting of the notice or a statement of the substance of the proposed rulemaking activity on the official website of the New Jersey Department of Corrections at [www.state.nj.us/corrections](http://www.state.nj.us/corrections); and

4. Distribution of the notice or a statement of the substance of the proposed rulemaking activity mailed to persons or organizations likely to be affected by or interested in the intended action such as, but not limited to, New Jersey State Law Libraries, the New Jersey State Parole Board, the American Civil Liberties Union of New Jersey, the New Jersey Association of Corrections, Departmental administrative staff, the custody staff bargaining unit, inmate advocacy groups, correctional facility Inmate Liaison Committees, correctional facility law libraries, and individuals or entities who request (see N.J.A.C. 10A:1-1.3) to be advised of the Department's proposed rulemaking activities.

(c) Notice of a rule proposal shall include a designated public comment period and specific information regarding to whom comments may be submitted.

1. Comments must be submitted to the individual at the address designated within the notice of a rule proposal in order to be considered by the Department;

2. Comments submitted for a notice of a rule proposal must fall within the scope of the subject matter of the rule proposal. Comments that do not fall within the scope shall be summarized in the notice of adoption along with a statement that the comment does not fall within the scope of the subject matter of the notice of a rule proposal; and

3. Except for comments made orally at a public hearing, comments submitted regarding a notice of a rule proposal must be in writing, legible and intelligible in order to be considered by the Department.

(d) The Department may extend the designated public comment period:

1. When deemed necessary by the Department; or

2. For a period of 30 calendar days, when, within 30 calendar days of the publication of a proposal, sufficient public interest is demonstrated in an extension of the time for comment submissions. For purposes of this subsection, sufficient public interest for granting an extension of the public comment period exists when 50 or more individuals have communicated a specific request for the extension of the comment period in writing to the Department of Corrections. This communication must be directed to the individual who has been designated to receive comments in the notice of a rule proposal.

(e) A public hearing on the proposed rulemaking activity shall be conducted by the Department when:

1. A request for a public hearing from a committee of the Legislature, or a governmental agency or subdivision, is made to the Department within 30 calendar days of the publication of the proposed rulemaking activity in the N.J.R.; or

2. Sufficient public interest is shown by the public within 30 calendar days of the publication of the proposed rulemaking activity in the N.J.R. For purposes of this subsection, sufficient public interest for conducting a public hearing exists when 100 or more individuals have communicated a specific request for a public hearing and the basis for such a request in writing to the Department. This communication must be directed to the individual who has been designated to receive comments in the notice of a rule proposal.

i. In the calculation of the number of comments received expressing the request for a public hearing, the Department shall not consider the following:

(1) Comments from incarcerated, legally committed or confined individuals who are not authorized to attend a public hearing;

(2) Comments that relate to specific recommended amendments in the rule that the Department has agreed to make;

(3) Comments that relate to amendments that the Department does not have the legal authority to make; or

(4) Comments that relate to amendments that are required by law.

(f) Notice of a public hearing shall be published in the New Jersey Register (N.J.R.), at least 15 days prior to the public

hearing when feasible. If timely N.J.R. publication is not feasible, such notice may be published in the N.J.R. with less than 15 days notice, as long as notice of the public hearing is provided by posting the notice on the official website of the New Jersey Department of Corrections at [www.state.nj.us/corrections](http://www.state.nj.us/corrections) at least 15 days prior to the public hearing.

New Rule, R.2001 d.455, effective December 3, 2001.

See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

Amended by R.2008 d.190, effective July 21, 2008.

See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

In (d)2, inserted "calendar" twice and substituted "a specific request" for "the need"; in (e)1, inserted "calendar"; in the introductory paragraph of (e)2, inserted "within 30 calendar days of the publication of the proposed rulemaking activity in the N.J.R." and substituted "a specific request" for "the need" and "request" for "need"; in the introductory paragraph of (e)2i, substituted "request" for "need"; and in (e)2i(1), inserted "legally committed or confined" and "who are".

Amended by R.2011 d.022, effective January 18, 2011.

See: 42 N.J.R. 2194(a), 43 N.J.R. 188(a).

Added (f).

### 10A:1-1.7 Calendar of Departmental rule activity

(A) A quarterly calendar of anticipated Departmental proposed rulemaking activities for the next six months may be available and published in the first New Jersey Register (N.J.R.) in the months of January, April, July and October.

1. When the Department of Corrections provides a 60 day comment period as indicated in the N.J.R. publication of a notice of a rule proposal, the calendar notice and N.J.R. publication of a calendar notice shall not be required.

2. When the Department of Corrections publishes a calendar in the N.J.R., access to the calendar may be obtained from:

i. The N.J.R. in issues from the months listed in (a) above;

ii. The official website of the Department of Corrections at [www.state.nj.us/corrections](http://www.state.nj.us/corrections); and

iii. By contacting the Department in accordance with N.J.A.C. 10A:1-1.3.

3. When the Department of Corrections publishes a calendar in the N.J.R., the calendar shall be:

i. Provided to the news media maintaining a press office in the New Jersey State House Complex; and

ii. Distributed to persons or groups likely to be affected by or interested in the calendar of anticipated Departmental proposed rulemaking activities such as, but not limited to, New Jersey State Law Libraries, the New Jersey State Parole Board, the American Civil Liberties Union of New Jersey, the New Jersey Association of Corrections, Departmental administrative staff, the custody staff bargaining unit, inmate advocacy groups, correctional facility Inmate Liaison Committees, correctional facility law libraries, and individuals or entities who have requested (see N.J.A.C. 10A:1-1.3) to be

advised of the calendar of anticipated Departmental proposed rulemaking activities.

4. The reimbursement for costs of copying the anticipated Department of Corrections calendar of proposed rulemaking activities for the next six months when published in an issue of the N.J.R. shall be in accordance with N.J.A.C. 10A:1-1.4, Reimbursement for costs of copying.

New Rule, R.2001 d.455, effective December 3, 2001.

See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

In the introductory paragraph of (a), inserted "Register".

## SUBCHAPTER 2. GENERAL PROVISIONS

### 10A:1-2.1 Scope

(a) Unless otherwise stated, N.J.A.C. 10A:1 through 10A:30 shall be applicable to State correctional facilities under the jurisdiction of the Department of Corrections.

(b) Unless otherwise stated, N.J.A.C. 10A:31 through 10A:34 shall be applicable to municipal and county correctional facilities within the State of New Jersey.

(c) Pursuant to the Sexually Violent Predator Act (N.J.S.A. 30:4-27.24 et seq.), the Department of Corrections shall be responsible for the operation of any Special Treatment Unit designated for the custody, care, control and treatment of sexually violent predators; therefore, when deemed necessary by the Commissioner of the Department of Corrections or designee, operational, custodial, security and medical care rules set forth within N.J.A.C. 10A:1 through 10A:30 shall be applicable to Special Treatment Units. Unless otherwise stated, N.J.A.C. 10A:35 shall be applicable to Special Treatment Units under the jurisdiction of the Department of Corrections.

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

Added (c).

### 10A:1-2.2 Definitions

The following words and terms, when used in N.J.A.C. 10A:1 through 10A:30, shall have the following meanings unless the context clearly indicates otherwise:

"Administrative segregation" means removal of an inmate from the general population of a correctional facility to a close custody unit because of one or more disciplinary infractions or other administrative considerations.

"Administrator" means an administrator or a superintendent who serves as the chief executive officer of any State correctional facility within the New Jersey Department of Corrections.

"A.D.T.C." means the Adult Diagnostic and Treatment Center which is the correctional facility designated to house persons who have been sentenced pursuant to N.J.S.A. 2C:47-1 et seq. and 2A:164-1 et seq.

"Adult county correctional facility" means any place, under the jurisdiction of a county, where adult persons convicted or accused of crimes are confined.

"Assistant Commissioner" means the chief executive officer of a Division within the Department of Corrections.

"Associate Administrator" means an assistant administrator or an assistant superintendent who is the ranking assistant to the Administrator of any State correctional facility within the New Jersey Department of Corrections.

"Asterisk offense" means a prohibited act preceded by a number and an asterisk that is considered the most serious and results in the most severe sanction(s).

"Body cavity search" means the visual inspection or manual search of a person's anal or vaginal cavity.

"Business day(s)" means any single or consecutive days during which most businesses operate, Monday through Friday, excluding weekends or legal holidays.

"Calendar day(s)" means any single day or consecutive days, January 1 through December 31.

"Canine search" means a search conducted by a canine team consisting of a handler(s) and a dog(s) specially trained to discover and indicate to the handler(s) the presence of various substances, objects and/or materials.

"Central Communications Unit" means the centralized communication center within the Department of Corrections which coordinates certain functions of the Department of Corrections on a 24 hours per day, seven days per week basis.

"Central Control" means the unit which coordinates the security and communication functions within a correctional facility.

"Central Medical/Transportation Unit" means the centralized unit which provides transportation for inmates within the Department of Corrections.

"Central Reception and Assignment Facility (CRAF)" means the facility of the New Jersey Department of Corrections for inmate reception and correctional facility assignments.

"Chemical agent" means an aerosol spray which may be used to gain control of individuals who resist arrest or for the purpose of self-defense against an attack.

"Civil union" means the legally recognized union of two eligible individuals of the same sex established pursuant to N.J.S.A. 37:1-36. Parties to a civil union shall receive the

same benefits and protections and be subject to the same responsibilities as spouses in a marriage.

“Civil union couple” means two persons who have established a civil union pursuant to N.J.S.A. 37:1-1 et seq., known as the Civil Union Act.

“Close Custody Unit” means an area within a correctional facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons.

“Close observation” means intermittent monitoring of an inmate either in-person or by video monitor at 15 minute intervals.

“Commissioner” means the Commissioner of the New Jersey Department of Corrections.

“Community Corrections Classification Committee (C-4)” means the Committee responsible for the assignment of a custody status and the placement of an inmate who has been returned from a residential community program to a correctional facility.

“Constant observation” means:

1. Uninterrupted surveillance of one inmate who is on suicide watch that shall be conducted in person or by video monitor when the video monitor provides continuous unobstructed vigilance of the inmate by one staff member; or

2. One minute interval surveillance of two inmates in adjacent cells by one staff member that shall be conducted in person or uninterrupted surveillance by one staff member of up to four inmates by video monitor when the video monitor provides continuous unobstructed vigilance of the inmates.

“Contact visit” means a visit between an inmate and a visitor where there is no barrier (such as a window or wall) between the inmate and visitor.

“Contraband” means:

1. Any item, article or material found in the possession of, or under the control of, an inmate which is not authorized for retention or receipt;

2. Any item, article or material found within the facility or on its grounds which has not been issued by the correctional facility or authorized as permissible for retention or receipt;

3. Any item, article or material found in the possession of, or under the control of, staff or visitors within the facility or on its grounds which is not authorized for receipt, retention or importation;

4. Any item, article or material that is authorized for receipt, retention or importation by inmates, staff or visitors but that is found in an excessive amount or that has been altered from its original form. An amount shall be considered excessive if it exceeds stated correctional facility limits or exceeds reasonable safety, security, sanitary, or space considerations; or

5. Any article that may be harmful or presents a threat to the security and orderly operation of the correctional facility shall be considered contraband. Items of contraband shall include, but shall not be limited to: guns and firearms of any type; ammunition; explosives; knives, tools and other implements not provided in accordance with correctional facility regulations; hazardous or poisonous chemicals and gases; unauthorized drugs and medications; medicines dispensed or approved by the correctional facility but not consumed or utilized in the manner prescribed; intoxicants, including, but not limited to, liquor or alcoholic beverages; and where prohibited, currency, stamps and electronic communication devices.

“Counsel substitute” means an individual, such as an inmate paralegal, teacher or social worker, who represents and defends an inmate at a disciplinary hearing proceeding that is conducted within a correctional facility under the jurisdiction of the Department of Corrections.

“Custody staff” except as otherwise provided, means Custody Supervisors, Senior Correction Officers and Correction Officer Recruits who have been sworn as peace officers.

“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.

“Deadly force” means force which a custody staff member uses with the purpose of causing, or which the custody staff member knows will create a substantial risk of causing, death or serious bodily harm.

“Department” means the New Jersey Department of Corrections.

“Departmental Research Review Board (DRRB)” means the members of a board, authorized by the Commissioner or designee, responsible for the review of requests to conduct research within the Department of Corrections.

“Deputy Commissioner” means Deputy Commissioner of the New Jersey Department of Corrections.

“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 and Customs Enforcement (ICE). 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.

“Director” means the executive officer next in rank to the Assistant Commissioner (Chief Executive Officer) of a Division within the Department of Corrections.

“Disciplinary detention” shall mean removal of an inmate from the general population to a short-term close custody unit because of a disciplinary infraction(s).

“Disciplinary Hearing Officer” means a staff member of the Department of Corrections designated to hear and adjudicate inmate violations of prohibited acts.

“Disciplinary report” means a form on which a violation of a prohibited act is recorded along with other pertinent information.

“Disciplinary sanction” means a prescribed penalty that is imposed for violation of a prohibited act.

“Division of Operation” means the administrative unit that is responsible for the administration of all correction facilities within the New Jersey Department of Corrections.

“Division of Programs and Community Services” means the division within the Department of Corrections that is responsible for correctional facility and community-based program opportunities for inmates, which include the offices of Community Programs, Drug Programs, Educational Services, Transitional Services, and Internal Support and Outreach Services.

“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. Related equipment and/or peripheral also includes, but is not limited to, equipment and/or peripherals that can be used with an electronic communications device such as power cords, chargers, or any other tangible items.

“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.

“Experimentation” means the use of any healthcare intervention that has not been previously tested and approved for the community population.

“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. Firearm shall also include, without limitation, any firearm, which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person (see N.J.S.A. 2C:39-1).

“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.

“Inmate Remedy System” means the comprehensive system through which an inmate may initially and formally submit a “Inquiry Form” and/or an “Inmate Grievance Form” in order to obtain information, and to present issues, concerns, and/or complaints in writing to the correctional facility staff. The Inmate Remedy System also includes an “Administrative Appeal” through which inmates are encouraged to formally appeal to the Administrator or designee the decision or finding rendered by correctional facility staff in regard to the “Inmate Inquiry Form” or “Inmate Grievance Form” that was previously presented by the inmate. The comprehensive Inmate Remedy System consists of:

1. An “Inmate Inquiry Form”;
2. An “Inmate Grievance Form”; and

3. An "Administrative Appeal."

"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 for administrative reasons to ensure the safe, secure and orderly operation of the correctional facility and/or 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. A foreign consul;
11. The Bureau of Risk Management, New Jersey Department of the Treasury;

12. The Special Investigations Division, Department of Corrections;

13. The Corrections Ombudsperson; and

14. 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, any item addressed to or received by an inmate from or someone or someplace that is not an authorized source of sale, an unauthorized item received by an inmate through the mail from an authorized 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.

“Office of Community Programs” means the office within the Department of Corrections, Division of Programs and Community Services, responsible for overseeing Residential Community Release Programs, such as Assessment and Treatment Centers, halfway houses, and Substance Use Disorder Treatment Programs, which provide rehabilitative and treatment services for inmates prior to their release.

“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.

“Prehearing Protective Custody” means the removal of an inmate from the general population by confinement to the inmate’s cell or placement into a Close Custody Unit pending an investigation and a hearing into the need for Protective Custody placement.

“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.

“Research” means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to general knowledge.

“Responsible health authority” means a designated person within a correctional facility who shall be a physician or health administrator, such as, but not limited to, an advanced practice nurse responsible for arranging health services to all inmates. When this authority is other than a physician, medical/clinical judgments rest with a designated licensed responsible physician.

“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 that serve to distinguish the group or group members from other inmate groups or other inmates and which, as a discrete entity, poses a threat to the safety of the staff, other inmates, the community or causes damage to or destruction of property, or interrupts the safe, secure and orderly operation of the correctional facility(ies).

“Shift Commander” means the custody staff member holding a supervisory rank who has been designated by the Administrator or designee as being 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 the removal or rearrangement of clothing to permit visual inspection of the person’s undergarments, buttocks, anus, genitals, or breasts.

“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.

“Weapon” means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to:

1. All firearms, even though not loaded or lacking a clip or other component to render them immediately operable;
2. All components that can be readily assembled into a weapon;
3. All gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood;
4. All stun guns; and
5. Any weapon or other device, which projects, releases, or emits a compressed gas or tear gas or any other substance or electrical signal intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air (see N.J.S.A. 2C:39-1).

“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.

“Zero Tolerance of the Incidence of Sexual Assault” means the zero tolerance policy maintained by the Department for the incidence of sexual assault in accordance with the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§15601 et seq. (see N.J.A.C. 10A:4-12).

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.)”.

Amended by R.2008 d.171, effective June 16, 2008.

See: 39 N.J.R. 2188(a), 40 N.J.R. 3718(d).

Added definition “Inmate Remedy System”.

Amended by R.2008 d.190, effective July 21, 2008.

See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

Added definitions “Administrative Segregation”, “Weapon” and “Zero Tolerance of the Incidence of Sexual Assault”; in definition “Contraband”, substituted “that” for “which” three times in paragraph 4, and in paragraph 5, substituted “that” for “which”, substituted a comma for “and” following “currency” and inserted “and electronic communication devices”; rewrote definitions “Division of Programs and Community Services” and “Strip search”; in definition “Firearm”, inserted the last sentence; in definition “Keep separate status”, inserted a comma following the first occurrence of “facility” and inserted “for administrative reasons to ensure the safe, secure and orderly operation of the correctional facility and/or”; in definition “Legal correspondence”, added new paragraph 10 and recodified former paragraphs 10 through 13 as paragraphs 11 through 14; in paragraph 12 of definition “Legal correspondence”, substituted “Special Investigations Division” for “Internal Affairs Unit”; in paragraph 13 of definition “Legal correspondence”, substituted “Corrections Ombudsperson, Division of Citizen Relations, Department of the Public Advocate” for “Office of the Om-

budsman, Department of Corrections"; and in definition "Non-permissible property" inserted "any item addressed to or received by an inmate from or someone or someplace that is not an authorized source of sale," deleted "or" following "through the mail" and substituted "an authorized" for "a".

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

Added definition "Office of Community Programs".

Amended by R.2009 d.86, effective March 16, 2009.

See: 40 N.J.R. 6732(a), 41 N.J.R. 1250(a).

In paragraph 2 of definition "Constant observation", inserted "uninterrupted surveillance by one staff member of up to four inmates".

Amended by R.2009 d.272, effective September 8, 2009.

See: 41 N.J.R. 2202(a), 41 N.J.R. 3301(b).

Added definition "Responsible health authority".

In definition "Shift Commander", substituted "a supervisory rank who has been designated by the Administrator or designee as being" for "the rank of Sergeant or higher".

Amended by R.2009 d.320, effective October 19, 2009.

See: 41 N.J.R. 2607(a), 41 N.J.R. 3936(a).

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Added definition "Prehearing Protective Custody".

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

In definition "Canine search", inserted ", objects".

Administrative change.

See: 43 N.J.R. 1344(a).

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

Rewrote definition "Security threat group".

Amended by R.2013 d.006, effective January 7, 2013.

See: 44 N.J.R. 957(a), 45 N.J.R. 34(b).

Added definitions "Experimentation" and "Research".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted definition "Administrative segregation" for definition "Administrative Segregation"; and in definition "Administrative segregation", substituted "means" for "shall mean", inserted "of a correctional facility", and deleted "long-term" preceding "close".

Amended by R.2015 d.191, effective December 7, 2015.

See: 47 N.J.R. 1863(a), 47 N.J.R. 3028(a).

In definition "Electronic communication device", inserted a comma following "transmitting" twice, following "image", and following "visual", and inserted the last sentence; and rewrote definition "Inmate Remedy System".

Petition for Rulemaking.

See: 48 N.J.R. 2078(b), 2637(a).

#### 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 record 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, policy and procedure making and exemption authority

(a) The Commissioner, pursuant to N.J.S.A. 30:1B-1 et seq., is authorized to formulate, adopt, issue, promulgate, relax and exempt 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 procedure in order to regulate the operational issues associated with the administration of correctional facilities, community programs and operational units and to formulate, modify, relax, and exempt such policies, procedures and regulations when necessary, so that same can function safely and 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 may relax certain requirements of a rule for good cause shown in a particular situation or in instances when strict compliance with a rule or all of its requirements would result in:

1. An undue hardship, unfairness or injustice;
2. An inability to meet a therapeutic, rehabilitative or medical need;
3. A security risk or imminent peril to the overall management, safe or orderly operation of a correctional facility, community program or operational unit;
4. An inability to utilize existing technology or apply technological innovations in order to meet penological objectives;
5. An inability to meet an operational need to ensure management effectiveness and efficiency; or
6. An inability to reasonably meet a time period requirement.

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).

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

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

Rewrote (c).

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

Section was "Rulemaking and exemption authority". In (a), substituted a comma for "and" preceding "promulgate" and inserted ", relax and exempt"; rewrote (b); in the introductory paragraph of (c), inserted "may relax" and "for good cause shown in a particular situation or"; in (c)1, inserted ", unfairness or injustice"; in (c)2, deleted "or" at the end; in (c)3, inserted "or imminent peril" and substituted a semicolon for a period at the end; and added (c)4 and (c)5.

Amended by R.2011 d.022, effective January 18, 2011.

See: 42 N.J.R. 2194(a), 43 N.J.R. 188(a).

In (c)4, deleted "or" from the end; added new (c)5; and recodified former (c)5 as (c)6.

**10A:1-2.5 Expiration of rule exemptions**

(a) All rule exemptions shall expire two years from the date of approval by the Commissioner.

(b) A rule exemption may be terminated prior to its expiration date when:

1. The special circumstances making the rule exemption necessary no longer exist; or
2. The Commissioner no longer approves the rule exemption.

(c) A rule exemption may be extended beyond its expiration date when:

1. The Administrator or Unit Supervisor reapplies for the rule exemption; and
2. The approval of the Commissioner is given for an extension of the rule exemption.

(d) A correctional facility, community program or operational unit shall return to compliance with the New Jersey Administrative Code when rule exemptions terminate or expire.

Amended by R.2003 d.176, effective May 5, 2003.  
See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

In (c)1, substituted "Administrator" for "Superintendent".

**10A:1-2.6 Effective dates of adopted and exempted rules**

(a) Unless otherwise noted in the New Jersey Register, an adopted rule is effective on the date of its publication in the New Jersey Register.

(b) The effective date of a rule exemption shall be the date of the Commissioner's signature on Form 911 Request for Rule Exemption.

**10A:1-2.7 Procedure for requesting rule exemptions**

(a) Requests for rule exemptions may be submitted by staff or committees to the Administrator for review.

(b) Requests for rule exemptions may be submitted by inmates or inmate groups to the Institutional Classification Committee (I.C.C.) for review. The I.C.C. shall review and submit inmate requests for rule exemptions to the Administrator along with recommendations for approval or disapproval. Such requests for rule exemptions must:

1. Be in writing;
2. Be legible and intelligible;
3. Contain the full name and address of the inmate or inmate group;
4. Contain the N.J.A.C. 10A citation of the rule for which the exemption is made; and
5. Include a clear and concise statement summarizing the substance of the rule exemption, why the suggestion is being requested and a summary of reasons for the exemption.

(c) Requests for rule exemptions may be submitted by staff members, individually or as a group, utilizing and submitting Form 911 to the community program supervisor or operational unit supervisor for review.

(d) The Administrator, community program supervisor or operational unit supervisor shall review and determine, based on the criteria in N.J.A.C. 10A:1-2.4(c), whether to submit requests for rule exemptions to the appropriate Assistant Commissioner and the Commissioner for consideration.

(e) If the Administrator, community program supervisor or operational unit supervisor approves a request for rule exemption, the designated sections of Form 911 Request for Rule Exemption shall be completed in duplicate, signed and submitted to the appropriate Assistant Commissioner.

(f) The Assistant Commissioner shall review Form 911 Request for Rule Exemption and determine whether to approve or disapprove the request, based on the criteria in N.J.A.C. 10A:1-2.4(c). If the Assistant Commissioner approves the request, the designated section of Form 911 shall be signed, dated and submitted to the Commissioner for review. If the Assistant Commissioner disapproves the request, the designated section of Form 911 shall be signed, dated and returned to the correctional facility Administrator, the community program supervisor or operational unit supervisor.

(g) The Commissioner shall review Form 911 Request for Rule Exemption, submitted by an Assistant Commissioner and determine whether to authorize a rule exemption, based on the criteria in N.J.A.C. 10A:1-2.4(c). The Commissioner shall approve or disapprove a rule exemption by signing and dating the designated section on Form 911 and returning it to the Assistant Commissioner.

(h) The Assistant Commissioner shall be responsible for notifying the Administrator, the community program supervisor or operational unit supervisor of the Commissioner's approval or disapproval of requests for rule exemptions.

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

Revised (d)-(h).

Administrative Correction in (e) and (f).

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

Administrative Change.

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

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

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

Substituted "Administrator" for "Superintendent" throughout.

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

In the introductory paragraph of (b), inserted the last sentence; added (b)1 through (b)5; and in (c), inserted "utilizing and submitting Form 911".

**10A:1-2.8 Forms**

(a) The following form related to Administration, Organization and Management is available by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain

copies of this form by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 911 Request for Rule Exemption.

(b) The following form related to inventory of inmate personal property is printed by the Bureau of State Use Industries—DEPTCOR and each facility shall purchase a supply of this form by contacting DEPTCOR:

1. IIS-1M Inmate Inventory Sheet.

(c) The following form related to Disability Discrimination Grievance is available at N.J.A.C. 10A:1-3.7 or can be obtained by contacting the ADA Coordinator, New Jersey Department of Corrections:

1. Americans with Disabilities Act Grievance Form 100.

Administrative change.

See: 35 N.J.R. 1137(a).

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

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

In (c), substituted "is available at N.J.A.C. 10A:1-3.7 or can" for "shall" following "Disability Discrimination Grievance" in the introductory paragraph.

Administrative change.

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

Amended by R.2006 d.419, effective December 4, 2006.

See: 38 N.J.R. 3226(a), 38 N.J.R. 5161(a).

In the introductory paragraph of (a), deleted "shall be reproduced from originals that" preceding "are available" and inserted "by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms".