

New Rule, R.2001 d.425, effective November 19, 2001.
 See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).
 Amended by R.2002 d.190, effective June 17, 2002.
 See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).
 Rewrote (a)2.

10A:9-2.10 Current Detainer/Open Charge Scale

(a) The following Detainer/Open Charge Scale shall be used to assess an inmate's current detainers or open charges and to assign points on the Initial and Reclassification Instruments:

1. Permissible detainers or open charges are detainers or open charges that do not preclude an inmate from being assigned to reduced custody. Inmates with permissible detainers/open charges shall receive zero points.
2. Non-permissible detainers or open charges are detainers or open charges that preclude an inmate from being assigned to reduced custody pursuant to N.J.A.C. 10A:9-4.6. Inmates with non-permissible detainers/open charges shall receive four points.

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

10A:9-2.11 Severity of Offense—Disciplinary Infractions Scale

(a) The Severity of Offense—Disciplinary Infractions Scale shall be used to assess an inmate's most serious disciplinary infraction received in the previous 12 months. The Severity of Offense—Disciplinary Infraction Scale has the following levels:

1. Highest;
2. High;
3. Moderate;
4. Low moderate; and
5. Low.

(b) The following prohibited acts appear at the highest level of the Severity of Offense—Disciplinary Infractions Scale. Inmates found guilty of any of the below listed disciplinary infractions shall receive seven points on the Reclassification Instrument.

1. *.001 killing;
2. *.003 assaulting any person with a weapon;
3. *.007 hostage taking;
4. *.050 sexual assault;
5. *.101 escape;
6. *.102 attempting or planning escape;
7. *.151 setting a fire;
8. *.201 possession or introduction of an explosive, incendiary device or any ammunition;

9. *.251 rioting;
10. *.252 encouraging others to riot; or
11. *.202 possession or introduction of a gun, firearm, weapon, sharpened instrument, knife or unauthorized tool.

(c) The following prohibited acts appear at the high level of the Severity of Offense—Disciplinary Infractions Scale. Inmates found guilty of any of the below listed disciplinary infractions shall receive five points on the Reclassification Instrument.

1. *.002 assaulting any person;
2. *.005 threatening another with bodily harm or with any offense against his or her person or his or her property;
3. *.006 extortion, blackmail, protection: demanding or receiving favors, money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing;
4. *.009 misuse or possession of electronic equipment not authorized for use or retention by an inmate such as, but not limited to, a cellular telephone(s), two-way radio(s), other communication device(s) and/or computer(s) and/or related device(s) and peripheral(s);
5. *.010 participating in an activity(ies) related to a security threat group;
6. *.154 tampering with or blocking any locking device;
7. *.155 adulteration of any food or drink;
8. *.203 possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;
9. *.204 use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;
10. *.214 possession of unauthorized keys or other security equipment;
11. *.253 engaging in, or encouraging, a group demonstration;
12. *.255 encouraging others to refuse to work or participate in work stoppage;
13. *.258 refusing to submit to testing for prohibited substances;
14. *.259 failure to comply with an order to submit a specimen for prohibited substance testing;
15. *.261 tampering with a urine specimen;
16. *.306 conduct which disrupts or interferes with the security or orderly running of the correctional facility;

17. *.352 counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document;

18. *.551 making intoxicants, alcoholic beverages, or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia;

19. *.552 being intoxicated;

20. *.704 perpetrating frauds, deceptions, confidence games, riots or escape plots;

21. *.708 refusal to submit to a search; or

22. *.751 giving or offering any official or staff member a bribe or anything of value.

(d) The following prohibited acts appear at the moderate level of the Severity of Offense—Disciplinary Infractions Scale. Inmates found guilty of any of the below listed disciplinary infractions shall receive three points on the Reclassification Instrument.

1. *.004 fighting with another person;

2. *.011 possession or exhibition of anything related to a security threat group;

3. .051 engaging in sexual acts with others;

4. .052 making sexual proposals or threats to another;

5. *.054 refusal to register as a sex offender;

6. .103 wearing a disguise or mask;

7. *.150 tampering with fire alarms, fire equipment or fire suppressant equipment;

8. .152 destroying, altering, or damaging government property, or the property of another person;

9. *.153 stealing (theft);

10. *.205 misuse of authorized medication;

11. .206 possession of money or currency (\$50.00 or less) unless specifically authorized;

12. *.207 possession of money or currency (in excess of \$50.00) unless specifically authorized;

13. .208 possession of property belonging to another person;

14. .210 possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels;

15. .211 possessing any staff member's clothing and/or equipment;

16. .254 refusing to work, or to accept a program or housing unit assignment;

17. .256 refusing to obey an order of any staff member;

18. .257 violating a condition of any community release program;

19. *.260 refusing to submit to mandatory medical testing;

20. .301 unexcused absence from work or any assignment; being late for work;

21. .304 using abusive or obscene language to a staff member;

22. .305 lying, providing a false statement to a staff member;

23. .351 counterfeiting, forging, or unauthorized reproduction or use of any document not enumerated in prohibited act *.352;

24. *.360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family;

25. .401 participating in an unauthorized meeting or gathering;

26. .402 being in an unauthorized area;

27. .451 failure to follow safety or sanitation regulations;

28. .452 using any equipment or machinery which is not specifically authorized;

29. .453 using any equipment or machinery contrary to instructions or posted safety standards;

30. .501 failure to stand count;

31. .502 interfering with the taking of count;

32. .601 gambling;

33. .602 preparing or conducting a gambling pool;

34. .603 possession of gambling paraphernalia;

35. .701 unauthorized use of mail or telephone;

36. .702 unauthorized contacts with the public;

37. .703 correspondence or conduct with a visitor in violation of regulations;

38. .705 commencing or operating a business or group for profit or commencing or operating a non-profit enterprise without the approval of the Administrator;

39. .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator;

40. .707 failure to keep a scheduled appointment with medical, dental or other professional staff;

41. .709 failure to comply with a written rule or regulation of the correctional facility;

42. .753 purchasing anything on credit; or

43. .754 giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose.

(e) The following prohibited acts appear at the low moderate level of the Severity of Offense—Disciplinary Infractions Scale. Inmates found guilty of any of the below listed disciplinary infractions shall receive two points on the Reclassification Instrument.

1. *.008 abuse/cruelty to animals;
2. .053 indecent exposure;
3. .209 loaning of property or anything of value;
4. .212 possessing unauthorized clothing;
5. .213 mutilating or altering clothing issued by the government;
6. .302 malingering, feigning an illness;
7. .303 failing to perform work as instructed by a staff member;
8. .553 smoking where prohibited;
9. .651 being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards; or
10. .652 tattooing or self mutilation.

(f) The following prohibited act appears at the low level of the Severity of Offense—Disciplinary Infractions Scale. Inmates found guilty of the below listed disciplinary infraction shall receive one point on the Reclassification Instrument.

1. .752 giving money or anything of value to, or accepting money or anything of value from, another inmate.

New Rule, R.2001 d.425, effective November 19, 2001.
See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).
Amended by R.2002 d.190, effective June 17, 2002.
See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).
Rewrote (c) and (d).

10A:9-2.12 Override Code Reference Index

(a) In accordance with the description of the override code, when an inmate cannot be assigned to the recommended custody status indicated by the custody level score on the Initial or Reclassification Instruments, the appropriate override code shall be applied and any specific information concerning the reason for the override shall be documented and maintained in the inmate record:

1. Code A: Medium custody status assignment or above due to mandatory minimum, No Early Release Act

(NERA) parole violation, or length of term requirements pursuant to N.J.A.C. 10A:9-4.6;

2. Code B: Medium custody status assignment or above pending disposition of non-permissible detainer or open charge pursuant to N.J.A.C. 10A:9-4.6;

3. Code C: Permanent custody prohibition/bar. Medium custody status assignment or above only due to escape history pursuant to N.J.A.C. 10A:9-4.8;

4. Code D: Medium custody status assignment or above due to escape history pursuant to N.J.A.C. 10A:9-4.6(s);

5. Code E-1: Permanent custody prohibition/bar. Medium custody status assignment or above only due to sexual or arson offense convictions pursuant to N.J.A.C. 10A:9-4.8;

6. Code E-2: Permanent custody prohibition/bar. Gang minimum custody status assignment or above only due to sexual or arson offense convictions pursuant to N.J.A.C. 10A:9-4.7;

7. Code F: Medium custody status assignment or above pending United States Immigration and Naturalization Service (USINS) response indicating interest pursuant to N.J.A.C. 10A:9-4.6;

8. Code G-1: Medium custody status assignment or above due to keep separate status pursuant to N.J.A.C. 10A:9-4.5;

9. Code G-2: Medium custody status assignment or above due to unfavorable psychological/psychiatric reports pursuant to N.J.A.C. 10A:9-3.3 or 4.5;

10. Code H: Medium custody status assignment or above due to voluntary or administrative protective custody pursuant to N.J.A.C. 10A:9-4.5;

11. Code I-1: Medium custody status assignment or above due to specialized substance use disorder screening or treatment pursuant to N.J.A.C. 10A:9-4.6;

12. Code I-2: Medium custody status assignment or above due to specialized medical treatment pursuant to N.J.A.C. 10A:9-4.5;

13. Code I-3: Medium custody status assignment or above due to specialized psychological/psychiatric treatment pursuant to N.J.A.C. 10A:9-4.5;

14. Code J: Requirement for medium custody status assignment or above due to pending disciplinary infraction(s);

15. Medium custody status assignment or above due to reasonable belief of the classification committee that the inmate will be unsuccessful in a lower custody status assignment at this time due to:

- i. Code K-1: Field account of the offense pursuant to N.J.A.C. 10A:9-3.3;

ii. Code K-2: Prior criminal record pursuant to N.J.A.C. 10A:9-3.3;

iii. Code K-3: Previous incarcerations pursuant to N.J.A.C. 10A:9-3.3;

iv. Code K-4: Institutional adjustment pursuant to N.J.A.C. 10A:9-3.3;

v. Code K-5: Reports from professional and custody staff pursuant to N.J.A.C. 10A:9-3.3 or 4.5;

vi. Code K-6: Reasons relating to the best interests of the inmate pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vii. Code K-7: Reasons relating to the safe orderly operation of the Department of Corrections facility pursuant to N.J.A.C. 10A:9-3.3;

viii. Code K-8: Reasons relating to the safety of the community or public at large pursuant to N.J.A.C. 10A:9-3.3;

ix. Code K-9: Reasons relating to the notoriety of the offense pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

16. Reduced custody status due to reasonable belief of the classification committee that the inmate would be successful in a lower than recommended custody status assignment at this time due to:

i. Code L-1: Previous correctional facility adjustment pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

ii. Code L-2: The nature of the offense not being as severe as the assessment scale indicates pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

iii. Code L-3: The short amount of time remaining on the inmate's sentence pursuant to N.J.A.C. 10A:9-4.5;

iv. Code L-4: Any reason relating to the best interests of the inmate pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

v. Code L-5: Any reason relating to the safe, orderly operation of the Department of Corrections facility pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vi. Code L-6: Prior criminal record pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vii. Code L-7: Previous incarcerations pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

viii. Code L-8: Reports from professional and custody staff pursuant to N.J.A.C. 10A:9-3.3 and 4.5; or

17. Code M: Medium custody status assignment or above due to a disciplinary sanction for an alcohol/drug related prohibited act pursuant to N.J.A.C. 10A:9-4.6.

(b) When the reason for an objective classification scoring instrument override ceases to apply at a time other than regular review time, the inmate shall be rescored on the same objective classification scoring instrument that was used at the last review.

(c) All objective classification overrides shall be subject to review by the Director, Division of Operations or designee.

New Rule, R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), added NJAC references in 10 and 14 and inserted "assignment" following "status" in 13.

Amended by R.2003 d.235, effective June 16, 2003.

See: 35 N.J.R. 1185(a), 35 N.J.R. 2647(a).

In (a)1, inserted "No Early Release Act (NERA) parole violation" following "mandatory minimum".

Amended by R.2003 d.429, effective November 3, 2003.

See: 35 N.J.R. 2778(a), 35 N.J.R. 5108(a).

Rewrote the section.

SUBCHAPTER 3. INSTITUTIONAL CLASSIFICATION COMMITTEE (I.C.C.)

10A:9-3.1 Responsibilities of the Institutional Classification Committee (I.C.C.)

(a) Each correctional facility shall establish an Institutional Classification Committee (I.C.C.) which shall be responsible for:

1. Assignment of inmates to work, educational, vocational and treatment programs appropriate to their needs;

2. Monitoring the progress of inmates by performing periodic reviews to ensure that rehabilitative efforts are being maximized;

3. Review of inmate applications for change in custody status;

4. Review of inmate requests for transfer to other facilities;

5. Making changes in the housing or program assignments of inmates;

6. Assignment of inmates to community release programs;

7. Review of the imposition of the Administrative Segregation sanction;

8. Review of Restrictive Activities Program assignments at the Adult Diagnostic and Treatment Center (A.D.T.C.);

9. Review of referrals from the Disciplinary Hearing Officers; and

10. Review and approval or disapproval of applications for the Electronic Monitoring/Home Confinement Program.

Recodified from 10A:9-3.2 by R.1992 d.79, effective February 18, 1992.
See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Repealed section 10A:9-3.1 was "Composition of the Institutional Classification Committee (I.C.C.)". Revised text.
Amended by R.2002 d.190, effective June 17, 2002.
See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Rewrote the section.

10A:9-3.2 Composition of the Institutional Classification Committee (I.C.C.)

(a) The members of the Institutional Classification Committee (I.C.C.) at each of the correctional facilities shall be composed of the:

1. Administrator, Associate Administrator or Assistant Superintendent;
2. Director of Education or designee;
3. Social Work Supervisor or designee;
4. Director of Custody Operations or custody supervisor designee;
5. Supervisor of State Use Industries (DEPTCOR) or designee, where applicable; and
6. Classification Officer (non-voting member).

(b) Staff members other than those listed above, may be designated by the Administrator to serve as members or alternate members of the I.C.C.

(c) The I.C.C. shall meet weekly, and more often as required.

New Rule, R.1992 d.79, effective February 18, 1992.

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

Old section 10A:9-3.2, Responsibilities of the Institutional Classification Committee (I.C.C.) recodified to 10A:9-3.1.

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 "adult" preceding "correctional facilities"; deleted (a)2, providing that the Director of Psychology is a committee member; redesignated (a)3 through (a)7 as (a)2 through (a)6; and provided for membership by designees.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a)1, substituted "Administrator, Associate Administrator" for "Superintendent"; in (b), substituted "Administrator" for "Superintendent".

10A:9-3.3 Institutional Classification Committee (I.C.C.) decision making criteria

(a) Decisions on transfers and assignments to housing; work, educational, vocational, or treatment programs; custody status; and community release programs shall be made after consideration of the following factors:

1. The objective classification scoring results as indicated on form CRAU-006 or CRAU-007 (excluding inmates committed to A.D.T.C.);
2. Needs and interests expressed by inmate;
3. Age;
4. Family status;