

**CHAPTER 20****RESIDENTIAL COMMUNITY PROGRAMS****Authority**

N.J.S.A. 30:1B-6, 30:1B-10, 30:4-91.3, 91.8, 91.9, 91.11, 91.12 and 91.13, and 30:4-92.

**Source and Effective Date**

R.2008 d.266, effective August 8, 2008.  
See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 20, Residential Community Programs, expires on February 4, 2016. See: 47 N.J.R. 2232(a).

**Chapter Historical Note**

Chapter 20, Community Release Programs, was adopted as R.1992 d.80, effective February 18, 1992. See: 23 N.J.R. 3624(a), 24 N.J.R. 616(a), 24 N.J.R. 953(a). Pursuant to Executive Order No. 66(1978), Chapter 20 expired on February 18, 1997.

Chapter 20, Community Release Programs, was adopted as R.1997 d.473, effective November 3, 1997. See: 29 N.J.R. 3779(b), 29 N.J.R. 4682(a).

Chapter 20, Community Release Programs, was readopted as R.2003 d.225, effective May 2, 2003. As a part of d.225, Chapter 20, Community Release Programs was renamed Chapter 20, Residential Community Programs, effective June 2, 2003. See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Chapter 20, Residential Community Programs, was readopted as R.2008 d.266, effective August 8, 2008. As a part of R.2008 d.266, Subchapter 4, Residential Community Release Agreement Programs and Mutual Agreement Programs, was renamed Residential Community Release Programs and Mutual Agreement Programs, effective September 2, 2008. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 20, Residential Community Programs, was scheduled to expire on August 8, 2015. See: 43 N.J.R. 1203(a).

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**SUBCHAPTER 1. GENERAL PROVISIONS****10A:20-1.1 Purpose**

(a) The purpose of the chapter is to:

1. Establish the eligibility criteria for Residential Community Release Programs, such as assessment and treatment centers, halfway houses, and Substance Use Disorder Treatment Programs;

2. Establish policies and procedures for the administration of Residential Community Release Programs, such as assessment and treatment centers, halfway houses, and Substance Use Disorder Treatment Programs;

3. Establish the eligibility criteria, and policies and procedures for the Department of Corrections related responsibilities for the administration of Mutual Agreement Programs;

4. Provide for required notifications pursuant to N.J.S.A. 30:4-91.8, 91.9, 91.11 and 91.13 when an inmate is being considered for participation in a residential community program; and

5. Provide for the establishment of a Community Relations Advisory Board(s) in accordance with N.J.S.A. 30:4-91.12.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), inserted "assessment and treatment centers," preceding "halfway houses" and substituted "Use Disorder" for "Abuse" following "Substance" in 1 and 2, and added 3 through 5.

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

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

In (a)1 and (a)2, deleted "Agreement" following "Release"; and in (a)1, substituted a comma for a semicolon following the first occurrence of "Programs".

### 10A:20-1.2 Scope

(a) This chapter shall be applicable to the State correctional facilities and Residential Community Release Programs under the jurisdiction of the Department of Corrections unless otherwise indicated.

(b) This chapter shall be applicable to State-sentenced inmates under the jurisdiction of the Department of Corrections.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

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

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

In (a), deleted "Agreement" following "Release".

### 10A:20-1.3 Definitions

The following terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Assessment and Treatment Center" means a Residential Community Release Program that provides eligible inmates with a comprehensive assessment of their needs and risks, an orientation to a treatment regimen, and a referral to a halfway house, Substance Use Disorder Treatment Program, or Mutual Agreement Program.

"Contract agency" means a Residential Community Release Program that has entered into a formal contract with the New Jersey Department of Corrections to provide an Assessment and Treatment Center, a halfway house, or Substance Use Disorder Treatment Program.

"Furlough plan" means a written plan which specifies a home or destination approved by a District Parole Office for an inmate to visit while the inmate is on furlough.

"Halfway house" means a Residential Community Release Program with specific emphasis on employment and educational activities in the context of treatment and rehabilitation.

"Health care provider" means an entity that provides health care services to the inmate population.

"Mutual Agreement Program (MAP)" means the cooperative agreement between the New Jersey Department of Corrections and the New Jersey Department of Human Services in reference to State-licensed, residential, community-based substance use disorder treatment programs throughout New Jersey for community-based treatment of inmates under the jurisdiction of the New Jersey Department of Corrections.

"Residential Community Release Program (RCRP)" means Assessment and Treatment Centers, halfway houses, or Substance Use Disorder Treatment Programs under contract with the New Jersey Department of Corrections.

"Residential community programs" means community-based programs, such as Residential Community Release Programs and Mutual Agreement Programs.

"Residential Community Program Notification Committee" means a group of Departmental staff designated by the Commissioner or designee that shall be responsible to provide notification pursuant to N.J.S.A. 30:4-91.8 and to review comments submitted to the Department when an inmate is considered for participation in a residential community program.

"Responsible health authority" means a designated person within a correctional facility who is administratively responsible for arranging health care services to all inmates. When this authority is other than a physician, in the medical area, or a dentist in the dental area, medical and dental judgments rest with the designated licensed responsible physician or dentist.

"Substance Use Disorder Treatment Program" means a Residential Community Release Program with specific emphasis on alcohol and/or drug treatment.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

Amended by R.2006 d.151, effective May 1, 2006.

See: 38 N.J.R. 96(a), 38 N.J.R. 1836(a).

In the definition of "Mutual Agreement Program (MAP)", substituted "between" for "among", deleted "the New Jersey State Parole Board" and substituted "Human" for "Health and Senior"; and deleted the definition "Regional institution".

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

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

In definitions "Assessment and Treatment Center", "Contract agency", "Halfway house", "Residential community programs" and "Substance Use Disorder Treatment Program", deleted "Agreement" following "Release"; in definition "Mutual Agreement Program (MAP)", deleted "formal" preceding "cooperative" and substituted "community-based" for "com-

munity based"; in definition "Residential community programs", substituted "community-based" for "community based"; and substituted definition "Residential Community Release Program (RCRP)" for definition "Residential Community Release Agreement Program (RCRP)" and definition "Residential Community Program Notification Committee" for definition "Residential Community Program Victim Notification Classification Committee".

#### 10A:20-1.4 Authority

Pursuant to N.J.S.A. 30:4-91.2, the Commissioner, New Jersey Department of Corrections, or designee may designate as a place of confinement any available, suitable and appropriate facility whether owned by the State or otherwise, and may at any time transfer an inmate from one place of confinement to another.

#### 10A:20-1.5 Forms

(a) The following forms related to residential community programs are available by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 172—II Continuity of Evidence—On-Site Urine Specimen Testing;
2. 686—I Community Program Application;
3. 686—II Community Program Application Checklist; and
4. MR-030 Community Release Medical Examination Form.

(b) The following forms related to the Furlough Program shall be reproduced by each correctional facility from the original that is available by contacting the New Jersey State Parole Board:

1. I-4 Request for Pre-Parole Report;
2. 822—A Pre-Parole Report.

(c) The following form is related to the accounting process as used by the RCRP when billing the Department of Corrections. The form shall be reproduced from the original that is available by contacting the New Jersey Department of Corrections, Division of Programs and Community Services, Office of Community Programs:

1. AR 50/54—State of New Jersey Payment Voucher (Vendor Invoice).

Administrative change.

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

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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 by each correctional facility 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" and ", New Jersey Department of Corrections".

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

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

In the introductory paragraph of (c), deleted ", New Jersey Department of Corrections" from the end.

### SUBCHAPTERS 2 THROUGH 3. (RESERVED)

#### SUBCHAPTER 4. RESIDENTIAL COMMUNITY RELEASE PROGRAMS AND MUTUAL AGREEMENT PROGRAMS

##### 10A:20-4.1 Contract/agreement between the New Jersey Department of Corrections and community agencies

(a) Agencies outside of the New Jersey Department of Corrections shall enter into a formal contract with the Department of Corrections prior to receiving inmates for placement into Residential Community Release Programs.

(b) Prior to receiving inmates for placement into a Mutual Agreement Program, such programs must be licensed through the Department of Human Services and be required to comply with the conditions established within the cooperative agreement that exists between the New Jersey Department of Corrections and the New Jersey Department of Human Services.

(c) In addition to any other contractual provisions, every contract between the Department of Corrections and the operator of a RCRP shall provide for the establishment of a Community Relations Advisory Board(s) in accordance with N.J.S.A. 30:4-91.12.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Designated the existing paragraph as (a) and substituted "Agencies" for "All agencies" preceding "outside"; added (b) and (c).

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

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

In (a), deleted "Agreement" following "Release"; and in (b), substituted "Human" for "Health and Senior" twice, deleted "formal" preceding "cooperative" and ", the New Jersey State Parole Board" following "Corrections", and substituted "between" for "among".

##### 10A:20-4.2 Administration of Residential Community Programs

(a) The Division of Programs and Community Services, Office of Community Programs, shall be responsible for the administration, monitoring and oversight of Residential Community Release Programs under contract with the New Jersey Department of Corrections.

(b) The Division of Programs and Community Services, Office of Drug Programs, shall be responsible for the monitoring and oversight of the Department of Corrections related responsibilities of the Mutual Agreement Programs. The Division of Administration is responsible for contract management.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Designated the existing paragraph as (a) and substituted "Division of Programs and Community Services, Office of Community Programs" for "Bureau of Contract Administration"; added (b).

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

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

In (a), inserted a comma following the second occurrence of "Programs", inserted "monitoring and oversight", and deleted "Agreement" following "Release"; and in (b), substituted "monitoring and oversight" for "administration" and inserted the last sentence.

#### Case Notes

Prisoner did not have state-created liberty interest in remaining in work release program that warranted due process protections; removal from a work release program did not work atypical and significant hardship relative to ordinary incidents of prison and was concerned only with conditions of confinement, not duration of confinement, and did not violate any substantive state-created predicates for terminating participation. *Asquith v. Volunteers of America*, 1 F.Supp.2d 405 (D.N.J. 1998).

#### 10A:20-4.3 Duties of correctional facility staff responsible for coordinating release to residential community programs

(a) The correctional facility Administrator shall designate a staff member to serve as the Institutional Community Release Program Coordinator. The Institutional Community Release Program Coordinator shall:

1. Maintain liaison with the Office of Community Programs and the Residential Community Release Programs;
2. Make periodic visits to Residential Community Release Programs and attend training sessions provided by the Office of Community Programs;
3. Be familiar with the Residential Community Release Programs and advise correctional facility staff of changes in policies of Residential Community Release Programs when advised by staff of the Office of Community Programs;
4. Be responsible for explaining Residential Community Release Programs to inmates; and
5. Be responsible for notifying the Office of Community Programs of any change that occurs in an inmate's status, such as, but not limited to, medical, custody, detainers or any such circumstances that would render the inmate ineligible for participation in Residential Community Release Programs.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), substituted "Administrator" for "Superintendent" in the introductory paragraph, inserted "but not limited to," preceding "medical," in 5, and substituted "Office of Community Programs" for "Bureau of

Contract Administration" and references to Residential Community Release Agreement Programs for references to contract agencies throughout.

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

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

Deleted "Agreement" following "Release" throughout; and in (a)3, substituted "familiar" for "responsible for having a thorough familiarity", inserted "the" preceding the first occurrence of "Residential" and inserted "when advised by staff of the Office of Community Programs".

#### 10A:20-4.4 General eligibility criteria for residential community programs

(a) Candidates for participation in residential community programs shall:

1. Be classified full minimum by the Institutional Classification Committee (I.C.C.) except as set forth in N.J.A.C. 10A:9-3 and 4;
2. Not demonstrate an undue risk to public safety;
3. Have a psychological evaluation which supports placement in a residential community program and shall address the inmate's readiness and ability to adequately adapt to the pressures and responsibilities of living outside the correctional facility. The psychological evaluation shall not be more than 12 months old;
4. Have received medical and dental certification, in accordance with N.J.A.C. 10A:20-4.9, indicating medical and dental clearance and that shall not be more than twelve months old;
5. Have made a satisfactory overall correctional facility adjustment and be seen as not likely to pose a threat to the safety of the community;
6. Have completed and signed Form 686—I Community Program Application for those inmates who are interested in participating;
7. Have had Form 686—I approved by the Institutional Classification Committee (ICC);
8. Have been approved by the Residential Community Program Notification Committee when notification is required pursuant to N.J.S.A. 30:4-91.8; and
9. Have been found to be an appropriate candidate for participation in a residential community program by the Assessment and Treatment Center.

Petition for Rulemaking.

See: 33 N.J.R. 1477(a).

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

Amended by R.2007 d.42, effective February 5, 2007.

See: 38 N.J.R. 4389(a), 39 N.J.R. 489(a).

In (a)1, inserted "except as set forth in N.J.A.C. 10A:9-3.12".

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

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

In (a)1, updated the N.J.A.C. reference; and in (a)8, deleted "Victim" following "Program" and "Classification" following "Notification".

Petition for Rulemaking.

See: 46 N.J.R. 715(b), 886(d).

**10A:20-4.5 Specific eligibility criteria for residential community programs**

(a) In addition to the general eligibility criteria in N.J.A.C. 10A:20-4.4, candidates for residential community programs who have not been convicted of a sexual offense as defined in N.J.S.A. 30:4-91.8 or an arson offense and who do not demonstrate an undue risk to public safety shall be eligible within the time frames established in (b) below of:

1. An established parole date;
2. An expiration of maximum sentence;
3. An actual parole eligibility date established by the New Jersey State Parole Board; or
4. An anticipated parole date, as established by the New Jersey State Parole Board, for inmates serving indeterminate sentences.

(b) Candidates are eligible for participation in a residential community program when the candidate:

1. Is otherwise eligible and who has less than 18 months remaining to be served and is determined by the Commissioner or designee to be appropriate for participation in a residential community program; or
2. Is otherwise eligible and who has more than one year but less than two years remaining to be served and is determined by the Commissioner or designee to be appropriate for participation in a substance use disorder treatment program.

Petition for Rulemaking.

See: 30 N.J.R. 3108(a), 30 N.J.R. 3553(b).

Amended by R.1999 d.427, effective December 6, 1999.

See: 31 N.J.R. 2293(a), 31 N.J.R. 4060(a).

In (a), inserted a reference to substance abuse treatment programs in the introductory paragraph.

Petition for Rulemaking.

See: 33 N.J.R. 1477(a).

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), rewrote the introductory paragraph; added (b).

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

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

In the introductory paragraph of (b), inserted "residential" and deleted "release" following "community".

**10A:20-4.6 (Reserved)**

Repealed by R.1999 d.427, effective December 6, 1999.

See: 31 N.J.R. 2293(a), 31 N.J.R. 4060(a).

Section was "Eligibility criteria for Substance Abuse Treatment Programs".

**10A:20-4.7 Exclusions from residential community programs**

(a) The following circumstances shall make an inmate ineligible for participation in a residential community program:

1. The provisions of any statutes of the State of New Jersey; and/or

2. Detainers, open charges or sentences which preclude eligibility for full minimum custody status (see N.J.A.C. 10A:9).

(b) A previous violation of a furlough, work release, electronic monitoring, or residential community program under the jurisdiction of the Department of Corrections may make an inmate ineligible for participation in a residential community program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote (a); added (b).

**10A:20-4.8 Inmate application, eligibility and review by the Institutional Community Release Program Coordinator**

(a) An inmate interested in participating in a Residential Community Release Program shall complete and sign all sections of Form 686—I Community Program Application and submit it to the Institutional Community Release Program Coordinator for review.

(b) The Institutional Community Release Program Coordinator shall explain to the inmate that the inmate's signature on Form 686—I merely signifies a willingness to participate in a residential community program and does not signify that the inmate has been approved for the Program.

(c) The Institutional Community Release Program Coordinator, upon receipt of the application from the inmate, shall determine:

1. That Form 686-I is completely and accurately filled out; and

2. That the inmate meets the eligibility criteria established for inmate participation in the residential community program.

(d) If the inmate does not meet the eligibility criteria, the inmate shall be notified of the reason(s), in writing, by the Institutional Community Release Program Coordinator.

(e) If the inmate meets the eligibility criteria, the Institutional Community Release Program Coordinator shall sign and submit Form 686-I to the Institutional Classification Committee (I.C.C.) for review and approval or disapproval.

(f) State-sentenced inmates in adult county correctional facilities may be reviewed for eligibility by the Director, Office of Community Programs or designee without the State-sentenced inmate having to submit an application. These inmates may be approved or disapproved by the Institutional Classification Reception Committee (I.C.R.C.) at the Central Reception and Assignment Facility for participation in a residential community program.

(g) The Office of Community Programs shall select the program assignment for the inmate approved by the I.C.C. for participation in a residential community program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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

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

Section was "Inmate application, eligibility and review by the Institutional Community Release Agreement Program Coordinator". Deleted "Agreement" following "Release" throughout; in (a), deleted "or who has received a recommendation to participate in MAP from the New Jersey State Parole Board" following the first occurrence of "Program"; and in (e), deleted "final" preceding "approval".

Amended by R.2012 d.122, effective July 2, 2012.

See: 44 N.J.R. 645(a), 44 N.J.R. 1899(a).

In (f), substituted "Institutional" for "Inter-Institutional" and "(I.C.R.C.)" for "(I.I.C.C.)", and inserted the first occurrence of "Reception".

Petition for Rulemaking.

See: 46 N.J.R. 715(b), 886(d).

#### Case Notes

The DOC's decision not to transfer an inmate to a halfway house based on misplaced letters and fact that case was highly visible and notorious, without a supporting record (or reconstruction) could not be the basis for denying the transfer when the Parole Board considered such placement critical to the parole process. *Trantino v. New Jersey State Parole Bd.*, 154 N.J. 19, 711 A.2d 260 (N.J. 1998).

#### 10A:20-4.9 Medical/dental/psychological review of applicants for residential community programs

(a) A complete review of an inmate's medical records shall be made by the health care provider when the inmate is being considered for placement in a residential community program.

(b) The responsible health care authority who is clinically responsible for the correctional facility medical department shall review an inmate's medical records, consider the following factors and provide medical certification prior to the Institutional Classification Committee (I.C.C.) approving or disapproving the inmate for participation in a residential community program. Factors to be considered include, but are not limited to:

1. The employability of the inmate;
2. The work limitations of the inmate, such as no food handling, light duty, no work around machinery;
3. Medication(s), such as psychotropic and addictive medication;
4. Chronic illness requiring frequent intervention, such as uncontrolled diabetes and unstable asthma;
5. Impending surgery; and
6. Any known medical restrictions.

(c) The responsible health care authority who is clinically responsible for the dental department shall review an inmate's dental records, consider all dental work in progress and provide dental certification prior to the I.C.C. approving or disapproving the inmate application for participation in a residential community program.

(d) The medical and dental health care authorities shall complete MR—030 Community Release Medical Examination Form and submit the form to the Institutional Community Release Program Coordinator who shall forward Form MR—030 to the I.C.C.

(e) If there are questions regarding the appropriateness of medically or dentally approving an inmate for participation in a residential community program, the medical and/or dental health care authority shall contact the Division of Operations, Health Services Unit, Director of Medical Services or Director of Dental Services, for assistance prior to sending the completed Form MR—030 to the Institutional Community Release Program Coordinator.

(f) An inmate's most recent psychological evaluation shall be reviewed prior to the I.C.C. approving or disapproving the inmate for participation in the residential community programs. When a psychological evaluation is more than 12 months old, the health care authority of the correctional facility shall ensure that another evaluation of the inmate is conducted. The evaluation shall assess:

1. The inmate's readiness and ability to adequately adapt to the pressures and responsibilities of living outside the correctional facility; and
2. The stability of the inmate which takes into account:
  - i. Any mental illness; and/or
  - ii. Current use of psychotropic medications.

(g) The Institutional Community Release Program Coordinator shall notify the Office of Community Programs of any changes in the inmate's medical, dental and/or psychological conditions that occur during the period of time between I.C.C. approval of an inmate for participation in the residential community programs and the transfer of the inmate to a program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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

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

In (d), (e) and (g), deleted "Agreement" following "Release".

#### 10A:20-4.10 Institutional Classification Committee's (I.C.C.) review and disposition

(a) The Institutional Classification Committee (I.C.C.) shall have the authority to review the inmate's file, and may approve/disapprove an inmate for participation in a residential community program after review of:

1. The general eligibility criteria in N.J.A.C. 10A:20-4.4;
2. The inmate's present and/or previous parole violation(s);

3. The inmate's previous failure in a residential community program; and/or

4. The decisionmaking criteria in N.J.A.C. 10A:9-3.3.

(b) The Administrator shall not overrule the disapproval of an application for a residential community program by the I.C.C.

(c) The Administrator may overrule the approval of an application for a residential community program by the I.C.C. when the Administrator has information which was not available to the I.C.C. when the residential community program application was approved.

(d) The Institutional Community Release Program Coordinator shall attend all meetings of the I.C.C. when residential community program cases are being reviewed.

(e) The Institutional Community Release Program Coordinator shall notify the inmate, in writing, of the status of the inmate's application to a residential community program.

Public Notice: Receipt of and Action on Petition for Rulemaking.

See: 29 N.J.R. 4347(b), 29 N.J.R. 4682(a).

Petition for Rulemaking.

See: 31 N.J.R. 3537(a), 31 N.J.R. 4127(b).

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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

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

Deleted former (b); recodified former (c) through (f) as (b) through (e); and in (d) and (e), deleted "Agreement" following "Release".

#### 10A:20-4.11 Forwarding documents to the Office of Community Programs

(a) Following approval of an inmate to participate in a residential community program, the Institutional Community Release Program Coordinator shall submit to the Office of Community Programs the following:

1. One copy of Form 686—I Community Program Application, and Form 686—II Community Program Application Checklist with all required attachments for those inmates who applied;

2. Two copies of MR—030 Community Release Medical Examination Form which shall not be more than 12 months old;

3. Two copies of current classification material for the inmate which includes a psychological evaluation which shall not be more than 12 months old;

4. Two copies of the face sheet and progress notes from the inmate's classification folder and any other relevant information regarding the inmate's correctional facility adjustment and program participation;

5. Two copies of the inmate's criminal history record;

6. Two copies of the New Jersey State Parole Board hearing decision, if available;

7. Two copies of Form I—4 Request for Pre-Parole Report, when it has not been previously completed, or a request to re-check the Pre-Parole Report if it is over 12 months old, or, if available, the results of the Pre-Parole investigation;

8. Two copies of a recent inmate photograph with physical description (photographs on the inmate face sheet are acceptable for this requirement);

9. Two copies of the status of detainers on file;

10. Two copies of the Pre-Sentence Report;

11. Two copies of the court commitment order to include fines, penalties and/or restitution;

12. Two copies of the keep separate orders, if applicable; and

13. Two copies of all supplemental documentation required, if available, for continuum of care treatment planning, to include:

i. Test of Adult Basic Skills scores;

ii. General Equivalency Diploma;

iii. Pupil progress report(s);

iv. An APTICOM Aptitude Test Battery report;

v. Vocational certificate(s);

vi. A Stabilization and Reintegration Program Boot Camp Discharge Summary, if applicable;

vii. A Therapeutic Community Discharge Plan, if applicable (attach a copy of the Addiction Severity Index long form); and

viii. An approved pre-parole report.

Administrative change.

See: 30 N.J.R. 366(a).

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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

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

In the introductory paragraph of (a), deleted "Agreement" following "Release"; and in (a)11, substituted "to include" for "when", inserted "and/" and deleted "are part of the sentence" from the end.

#### 10A:20-4.12 Role of the Division of Programs and Community Services, Office of Community Programs and the Residential Community Program Notification Committee

(a) Whenever the inmate to be reviewed has been convicted of an offense enumerated at N.J.S.A. 30:4-91.8, the Residential Community Program Notification Committee shall provide written notice of that review to the prosecutor of the county in which the inmate was convicted or, if the matter was prosecuted by the Attorney General, the written notice shall be provided to the Attorney General:

1. The notice shall include the name of the inmate, identifying factors and offense history and shall be timely faxed and mailed by the Committee to the county prosecutor or Attorney General to ensure that the county prosecutor or Attorney General shall have 10 business days in which to submit comments to the Department of Corrections; and

2. If the county prosecutor, Attorney General, victim, or victim's nearest relative does not submit comments to the Department of Corrections within those 10 business days of receipt of such notice, the Department of Corrections may presume that the prosecutor, Attorney General, victim or victim's nearest relative does not wish to submit any comments on the matter.

(b) The Residential Community Program Notification Committee shall consider comments received as a result of notice provided pursuant to N.J.S.A. 30:4-91.8 and submitted to the Department of Corrections. Such comments may be submitted by the county prosecutor, Attorney General, and the victim of the crime or the victim's nearest relative if the crime resulted in death. Comments shall receive all due consideration when the Residential Community Program Notification Committee is making the determination to approve/disapprove a candidate for participation in a residential community program.

(c) The Director, Office of Community Programs or designee may review State-sentenced inmates in adult county correctional facilities for eligibility without submission of an application by the inmate.

(d) The Office of Community Programs shall assign the inmate to an Assessment and Treatment Center based on the inmate's treatment needs and bed space availability.

(e) The Office of Community Programs shall prepare the transfer orders necessary for the inmate to be transferred from the correctional facility to the Assessment and Treatment Center.

(f) The Office of Community Programs shall maintain a waiting list of inmates approved for assignment to the residential community programs.

(g) Each Assessment and Treatment Center shall establish an Assessment Center Classification Committee which shall be responsible for reviewing the progress of inmates and for assigning inmates who are housed at the Assessment and Treatment Center to:

1. Another residential community program; or
2. Be referred to the Institutional Classification Committee at the Central Reception and Assignment Facility.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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

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

Section was "Role of the Division of Programs and Community Services, Office of Community Programs and the Residential Community

Program Victim Notification Classification Committee". In the introductory paragraph of (a) and throughout (b), deleted "Victim" following "Program" and "Classification" following "Notification"; and in the last sentence of (b), substituted "Comments shall receive all due consideration when" for "Based upon the consideration of such comments," and "is making the determination to" for "shall".

#### 10A:20-4.13 Notification of inmate assignment to a residential community program

(a) After Form 686-I Section II, Authorization for Release of Information has been signed by the inmate, the Office of Community Programs shall forward a copy of all the documents received pursuant to Form 686-II, Community Program Application Checklist with all required documents and supplemental documents to the residential community program to which the inmate has been assigned. The residential community program must handle all inmate documents and classification material with strict confidentiality.

(b) Pursuant to N.J.S.A. 30:4-91.11, whenever an eligible inmate is authorized for confinement in a residential community program, the correctional facility classification officer shall prepare a summary of all relevant information relating to the inmate's criminal history and background. This information shall include a current face sheet, current progress notes, current photograph of the inmate and the most recent Pre-Sentence Investigation Report available. The classification officer shall forward the summary of all relevant information to the Office of Community Programs.

(c) The Office of Community Programs shall transmit to the Residential Community Release Program (RCRP), within five business days of the inmate's transfer to the RCRP, the summary of all relevant information relating to the inmate's criminal history and background along with all documentation and supplemental documentation required as referenced in N.J.A.C. 10A:20-4.11. The Office of Drug Programs shall be responsible for the transmission of documentation referenced in this subsection to the Mutual Agreement Program provider prior to the transfer of an inmate to the program.

(d) The Director or designee of the residential community program shall be responsible for transmitting, within five business days of an inmate's transfer to a residential community program, the summary of all relevant information relating to the inmate's criminal history and background referenced in (b) above to the following individuals:

1. The chief law enforcement officer of the municipality in which the residential community program is located; and
2. The chief law enforcement officer of the municipality adjacent to the residential community program, if the residential community program is within 2,500 feet of the border of an adjacent municipality.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Designated the existing paragraph as (a) and rewrote the paragraph; added (b) through (d).

Amended by R.2008 d.266, effective September 2, 2008.  
See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In (c), deleted "Agreement" following "Release".  
Amended by R.2012 d.122, effective July 2, 2012.  
See: 44 N.J.R. 645(a), 44 N.J.R. 1899(a).

In (a), substituted "II" for "III" following "Section".

#### **10A:20-4.14 New Jersey State Parole Board hearing**

New Jersey State Parole Board hearings for inmates assigned to residential community programs shall be arranged and conducted in accordance with N.J.A.C. 10A:71-3 and any applicable statutes.

Amended by R.2003 d.225, effective June 2, 2003.  
See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Substituted "residential community programs" for "Residential Community Release Agreement Programs".

#### **10A:20-4.15 New Jersey State Parole Board extension after inmate is approved for program and is awaiting placement**

(a) When an inmate receives a New Jersey State Parole Board extension, after the inmate has been approved for transfer and is on the waiting list for a bed, the inmate's name shall be removed from the waiting list.

(b) The inmate may reapply for participation in a residential community program in accordance with N.J.A.C. 10A:20-4.8.

Amended by R.2003 d.225, effective June 2, 2003.  
See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), substituted "inmate's name shall be removed from the waiting list" for "Bureau of Contract Administration shall request an updated parole eligibility date"; rewrote (b); deleted (c).

#### **10A:20-4.16 New Jersey State Parole Board extension for inmates of a residential community program**

(a) When an inmate's parole eligibility date has been extended, the Administrator or designee of the Regional Institution shall consult with the Office of Community Programs and the Director of the residential community program to determine whether the inmate will remain at the residential community program by reviewing the following:

1. The updated parole eligibility date;
2. The inmate's overall progress and adjustment in the residential community program;
3. The inmate's prognosis for successfully completing the program if allowed to remain;
4. The total length of time the inmate will be in the program; and
5. Any other pertinent information.

(b) When an inmate's parole eligibility date has been extended, and the inmate's parole eligibility date would extend participation beyond the 18 months of parole eligibility

remaining to be served specified at N.J.A.C. 10A:20-4.5, or in the case of an inmate sentenced under the provisions of N.J.S.A. 30:4-91.8 and 9 where the parole eligibility date has been extended beyond 12 months of parole eligibility remaining to be served, the inmate shall be returned to the correctional facility for assignment, but the inmate may reapply when eligible.

(c) Parole eligibility dates shall not be projected in determining appropriate placement of inmates in residential community programs.

Amended by R.2003 d.225, effective June 2, 2003.  
See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), rewrote the introductory paragraph and substituted "residential community program" for "Residential Community Release Agreement Program" in 2; rewrote (b); in (c), substituted "residential community programs" for "halfway houses or other Residential Community Release Agreement Programs".

Amended by R.2004 d.53, effective February 2, 2004.  
See: 35 N.J.R. 4811(a), 36 N.J.R. 656(a).

In (b), substituted "correctional facility for assignment" for "Central Reception and Assignment Facility for correctional facility assignment".  
Amended by R.2008 d.266, effective September 2, 2008.

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

Section was "New Jersey State Parole Board extension for residents of a residential community program".

#### **10A:20-4.17 Preparation for transfer to a residential community program**

(a) A complete medical and dental checkup shall be given each inmate prior to the inmate's transfer to a residential community program.

(b) A check for the money remaining in the inmate's account shall be forwarded to the inmate at the residential community program.

(c) Copies of the transfer authorization shall be sent by the Office of Community Programs to appropriate personnel at:

1. The parent correctional facility;
2. The regional institution; and
3. The residential community program.

(d) The Office of Community Programs shall be notified immediately of the cancellation of an impending transfer of an inmate to a residential community program so that another inmate may be selected for placement.

(e) The Institutional Community Release Program Coordinator shall encourage and assist the inmate, when appropriate, in obtaining documents that will be necessary in the inmate's search for employment and should be processed, if possible, prior to transfer. These documents may include:

1. A Social Security card;
2. A driver's license; and/or
3. A birth certificate.

(f) Inmate personal property shall be handled in accordance with N.J.A.C. 10A:1-11.7.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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

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

In (c)2, inserted "and" at the end; in (c)3, substituted a period for "; and"; deleted (c)4; in the introductory paragraph of (e), deleted "Agreement" following "Release"; and in (e)3, inserted a period at the end.

#### 10A:20-4.18 Transportation of inmate

(a) The Office of Community Programs shall be responsible for making the arrangements necessary for transporting the inmate to the residential community program through Central Transportation.

(b) Inmates may be transported without restraint to the residential community program in a State owned passenger vehicle.

(c) After an inmate has been assigned to, and is living at, a residential community program, the inmate shall be transported to a correctional facility in accordance with internal management procedures established to provide transportation between residential community programs and correctional facilities.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

#### 10A:20-4.19 Residential community program rules, regulations and discipline

(a) The residential community program Director or designee shall conduct an orientation to the program and written rules and regulations shall be given to each inmate immediately following the inmate's arrival at the residential community program.

(b) Inmates who violate residential community program rules or regulations shall be subject to such restriction of privileges by residential community program staff as would apply to other inmates. Such restrictions shall be imposed in accordance with procedures developed by residential community program staff and agreed upon by the Commissioner, Department of Corrections or designee and the Director of the residential community program (see N.J.A.C. 10A:4).

(c) Major disciplinary violations shall be reported immediately to the regional institution and the Office of Community Programs, or in the case of a MAP inmate, the Office of Drug Programs.

(d) Major disciplinary violation charges shall result in the immediate transfer of the inmate to a correctional facility within the New Jersey Department of Corrections. Major disciplinary violations shall include, but are not limited to:

1. Charges by law enforcement authorities for violation of law, except minor traffic and municipal violation;

2. Charges for or evidence of violation of any statute governing the use of a controlled dangerous substance (C.D.S.);

3. Asterisk prohibited acts as listed in the N.J.A.C. 10A:4-4, except for prohibited act \*.207;

4. Some non-asterisk prohibited acts (see N.J.A.C. 10A:4), such as prohibited act .254 Refusing to work, or to accept a program or housing unit assignment;

5. Travel outside of the State of New Jersey;

6. Use or possession of alcohol and/or controlled dangerous substances; and

7. Engaging in sexual acts on the premises of the residential community program.

(e) The Director or designee of the residential community program shall be responsible for ensuring the disciplinary charges are prepared for major disciplinary violations in accordance with N.J.A.C. 10A:4.

(f) All minor violations and in-house disciplinary actions shall be recorded in the residential community program's log book and the inmate's file for review by the Office of Community Programs or the Office of Drug Programs staff members.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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

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

In (b), substituted "Inmates" for "Inmate residents" and "inmates" for "inmate residents"; and in (d)4, inserted ", or to accept a program or housing unit assignment".

#### 10A:20-4.20 Testing for prohibited substances

(a) All inmates who participate in a residential community program shall be subject to testing for prohibited substances.

(b) Testing for prohibited substances at residential community programs shall be conducted in accordance with N.J.A.C. 10A:3-5.10. Collection, storage and analysis of specimens at residential community programs shall be conducted in accordance with the applicable subsections of N.J.A.C. 10A:3-5.11.

(c) In order to comply with N.J.A.C. 10A:3-5.10 and the applicable subsections of N.J.A.C. 10A:3-5.11, the Director or designee of the residential community program shall be considered the equivalent of the Administrator. A staff supervisor or designee shall be considered the equivalent of a custody staff member of the rank of Sergeant or above.

(d) Form 172—II Continuity of Evidence—On-site Urine Specimen shall accompany all specimens that are delivered by the residential community program to the designated

gram, if the residential community program is within 2,500 feet of the border of an adjacent municipality; and

3. The Director or designee of the Office of Community Programs.

(c) Notification by the residential community program established in this section shall be accompanied by a current summary of all relevant information relating to the escapee's criminal history and background, to include a current face sheet and most recent Pre-Sentence Investigation Report.

(d) When additional information becomes available or the inmate returns to the residential community program, the highest ranking residential community program staff member who is on duty shall immediately notify the Center Control of the regional institution.

(e) Upon notification by a residential community program Director or designee that an escape has occurred, and upon notification that the escapee has returned to the residential community program, or when new information regarding a previously reported escape is forwarded, the Center Control of the regional institution shall proceed in accordance with Departmental internal management procedures, and N.J.A.C. 10A:21 and 10A:22.

(f) The Director or designee of the residential community program shall complete and fax the appropriate Escape Report (Form CA:44.2a) to the Office of Community Programs on the day of the escape, or no later than 7:30 A.M. on the next business day.

Amended by R.2003 d.225, effective June 2, 2003.  
See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

Amended by R.2008 d.266, effective September 2, 2008.  
See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In (b)3, deleted a comma following "Director" and substituted "of" for "for" following "designee".

#### 10A:20-4.40 Writing the escape charge

The highest ranking residential community program staff member who was on duty at the time of the escape shall be responsible for writing the escape charge.

Amended by R.2003 d.225, effective June 2, 2003.  
See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Deleted "contract agency" preceding "highest ranking" and inserted "residential community program" preceding "staff member".

#### 10A:20-4.41 Persons authorized to remove inmates from a residential community program

(a) An inmate residing in a residential community program may be removed from a residential community program only by the following persons:

1. Law enforcement authorities holding a legal warrant or a Writ of Habeas Corpus;
2. Staff of the regional institution or from the correctional facility assigned to transfer the inmate;

3. Escort officers from Central Transportation, Department of Corrections; or

4. Parole officers from the District Parole Office.

(b) Advance notice of the impending removal of an inmate shall be provided to the residential community program by the regional institution except in cases where such notification could lead to the inmate escaping.

(c) Upon arrival, official identification must be presented to the Director or designee of the residential community program by the person(s) authorized to remove an inmate from the residential community program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), deleted "legally" preceding "residing" in the introductory paragraph and deleted "/Medical" preceding "Transportation" in 3; in (b), substituted "escaping" for "absconding"; substituted "residential community program" for "contract agency" throughout.

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

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

In the introductory paragraph of (a), deleted "resident" following "inmate".

#### 10A:20-4.42 Nondisciplinary administrative returns

(a) Situations warranting an administrative return of an inmate to the correctional facility may include, but are not limited to:

1. An inmate needing medical treatment which is required to be obtained at the correctional facility;
2. An inmate failing to make a satisfactory adjustment although the inmate has not committed a major infraction;
3. An inmate displaying signs of becoming a potential escape risk; and/or
4. The correctional facility receiving a detainer which requires a change in the inmate's community custody status.

(b) In cases when an inmate is being returned to the correctional facility for administrative reasons, the director or designee shall prepare a report using Form CA:44.2b Disciplinary/Administrative Discharge Summary, which indicates the reason(s) for the return.

(c) A copy of the report shall be given to the custody staff member(s) who is transporting the inmate, and a copy shall be faxed as soon as possible to the Office of Community Programs. The report shall include the following information:

1. The detailed reasons for the return of the inmate; and
2. A summary of the inmate's overall attitude and adjustment while in the residential community program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote (b) and (c).

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

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

In the introductory paragraph of (c), substituted "member(s)" for "member" and inserted "as soon as possible".

**10A:20-4.43 Disciplinary and/or emergency transfer**

(a) When an inmate violates a prohibited act(s) that is listed in N.J.A.C. 10A:20-4.19, the inmate shall be transferred to a Department of Corrections correctional facility in accordance with N.J.A.C. 10A:20-4.18.

(b) Copies of reports, notices and other documents related to an inmate's return from a residential community program shall be given to the custody staff member(s) who is transporting the inmate, and copies shall be faxed as soon as possible by the Director or designee of the residential community program to the Office of Community Programs. These reports shall include, but not be limited to, Form 259 Disciplinary Report, and Form CA:44.2b Disciplinary/Administrative Discharge Summary.

(c) The Community Corrections Classification Committee (C-4) shall, at the next regularly scheduled meeting, review

the disciplinary transfers of inmates from residential community programs to correctional facilities within the New Jersey Department of Corrections.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote (b); in (c), substituted "residential community programs" for "Residential Community Release Agreement Programs".

Amended by R.2004 d.180, effective May 3, 2004.

See: 36 N.J.R. 6(b), 36 N.J.R. 2241(b).

In (c), substituted "The" for "In accordance with N.J.A.C. 10A:9-6.5, the".

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

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

In (b), inserted "as soon as possible".

Amended by R.2012 d.122, effective July 2, 2012.

See: 44 N.J.R. 645(a), 44 N.J.R. 1899(a).

In (c), substituted "Community Corrections" for "Inter-Institutional" and "(C-4)" for "(I.I.C.C.)".