

CHAPTER 10

INTERJURISDICTIONAL AGREEMENTS AND STATUTES

Authority

N.J.S.A. 2A:159A-1 et seq., 2A:160-6 et seq., 30:1B-6, 30:1B-10, 30:7C-1 et seq., and 30:7D-1; U.S.C. Const. Art. 4 §2, Cl. 2; and 18 U.S.C. App. 2 §2.

Source and Effective Date

R.2008 d.149, effective May 14, 2008.
See: 40 N.J.R. 1056(a), 40 N.J.R. 3726(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 10, Interjurisdictional Agreements and Statutes, expires on November 10, 2015. See: 47 N.J.R. 1285(a).

Chapter Historical Note

Chapter 10, Inter-Jurisdictional Agreements and Statutes, was adopted as Subchapter 6, International Transfer, by R.1987 d.331, effective August 17, 1987. See: 19 N.J.R. 916(a), 19 N.J.R. 1650(c). Subchapter 3, Interstate Corrections Compact, was adopted as R.1991 d.586, effective December 16, 1991. See: 23 N.J.R. 2221(a), 23 N.J.R. 3756(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Inter-Jurisdictional Agreements and Statutes, was readopted as R.1992 d.310, effective July 9, 1992. See: 24 N.J.R. 1939(a), 24 N.J.R. 2731(b). Pursuant to Executive Order No. 66(1978), Chapter 10, Inter-Jurisdictional Agreements and Statutes, expired on July 9, 1997.

Chapter 10, Interjurisdictional Agreements and Statutes, was adopted as new rules by R.1998 d.135, effective March 16, 1998. See: 30 N.J.R. 5(a), 30 N.J.R. 1039(b).

Subchapter 4, Agreement on Detainers, was adopted as R.2002 d.66, effective March 4, 2002. See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a), 34 N.J.R. 1431(a).

Chapter 10, Interjurisdictional Agreements and Statutes, was re-adopted as R.2003 d.325, effective July 14, 2003. See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Subchapter 7, Notification of Foreign Consuls when Foreign Nationals are Imprisoned, was adopted as New Rules by R.2005 d.306, effective September 6, 2005. See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(b).

Chapter 10, Interjurisdictional Agreements and Statutes, was re-adopted as R.2008 d.149, effective May 14, 2008. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 10, Interjurisdictional Agreements and Statutes, was scheduled to expire on May 14, 2015. See: 43 N.J.R. 1203(a).

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State of New Jersey and to inmates extradited from the State of New Jersey to another state.

(e) Unless otherwise stated, N.J.A.C. 10A:10-1 and 6 shall be applicable to inmates having foreign citizenship who are transferred to their countries of citizenship pursuant to the treaty that exists between the United States and the foreign country.

(f) Unless otherwise stated, N.J.A.C. 10A:10-1 and 7 shall be applicable to inmates who are not citizens or permanent resident aliens (green card holders) of the United States and who are foreign visitors or illegal aliens who have been committed to the custody of the New Jersey Department of Corrections.

Amended by R.2002 d.66, effective March 4, 2002.
 See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

Inserted new (c) and recodified former (c) as (d).
 Amended by R.2003 d.325, effective August 4, 2003.
 See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Inserted a new (d) and recodified former (d) as (e).
 Amended by R.2005 d.306, effective September 6, 2005.
 See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added (f).

10A:10-1.3 Definitions

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

“Foreign national” means any person who is not a citizen or permanent alien resident (green card holder) of the United States and who is a foreign visitor or illegal alien.

“Legal rights” means State or Federal rights.

“Receiving state” means a state receiving an inmate transferred from a sending state.

“Sending state” means a state which is transferring to another state an inmate committed within the sending state’s jurisdiction.

New Rule, R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Former N.J.A.C. 10A:10-1.3, Forms, recodified to N.J.A.C. 10A:10-1.4.

Amended by R.2005 d.306, effective September 6, 2005.

See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added definition “Foreign national”.

Amended by R.2007 d.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

Deleted definition “State”.

10A:10-1.4 Forms

(a) The following forms related to the Interstate Corrections Compact 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:

SUBCHAPTER 1. GENERAL PROVISIONS

10A:10-1.1 Purpose

(a) The purpose of this chapter is to establish:

1. Requirements for the interstate transfer of an inmate(s) for confinement in a correctional facility(ies);

2. Requirements for the interstate transfer of an inmate for the purpose of disposing of charges filed against the inmate in an out-of-State jurisdiction;

3. Requirements in accordance with the Uniform Criminal Extradition Act (see N.J.S.A. 2A:160-6 et seq.);

4. Requirements for the international transfer of an inmate(s) who is a citizen of a foreign country to the country of citizenship (see N.J.S.A. 30:7D-1); and

5. Provisions in accordance with the Vienna Convention on Consular Relations of 1963, Art. 36, 37, and 42 for the notification of a foreign consul when a foreign national is committed to the custody of the New Jersey Department of Corrections.

Amended by R.2002 d.66, effective March 4, 2002.

See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

In (a), added 3.

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Rewrote the section.

Amended by R.2005 d.306, effective September 6, 2005.

See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

In (a)3, deleted “and” following “et seq.”; in (a)4, substituted “; and” for “.” following “30:7D-1”; added (a)5.

Amended by R.2013 d.019, effective February 4, 2013.

See: 44 N.J.R. 2275(a), 45 N.J.R. 210(a).

In the introductory paragraph of (a), inserted “establish”; in (a)1 through (a)4, substituted “Requirements” for “Establish requirements”; and in (a)5, substituted “Provisions” for “Establish provisions” and inserted a comma following “37”.

10A:10-1.2 Scope

(a) Unless otherwise stated, N.J.A.C. 10A:10-1 and 3 shall be applicable to the New Jersey Department of Corrections and State sentenced inmates transferred or being considered for a transfer.

(b) Unless otherwise stated, N.J.A.C. 10A:10-1 and 3 shall be applicable to inmates from contracting states who are transferred outside their state of conviction to the New Jersey Department of Corrections.

(c) Unless otherwise stated, N.J.A.C. 10A:10-1 and 4 shall be applicable to an inmate against whom a detainer has been filed by an out-of-State jurisdiction.

(d) Unless otherwise stated, N.J.A.C. 10A:10-1 and 5 shall be applicable to inmates extradited from another state to the

- i. Time bank;
- ii. Money;
- iii. Inmate for inmate; or
- iv. Any other method of exchange agreed upon.

(e) A rider shall remain in full force as long as the inmate is in the custody of the receiving state or until either state compact member desires to make a major change or amendment to the original conditions of the contract or rider(s).

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).
Rewrote (b).

10A:10-3.6 Reasons for interstate transfer

(a) Inmate interstate transfer may be considered, arranged and implemented either at the request of an inmate (consensual), at the request of the Administrator (nonconsensual), or upon order of the Commissioner for any of the following reasons:

1. To confine an inmate in the home state when that state is other than the one in which the inmate was convicted;
2. To place an inmate in another state where special facilities exist for treating:
 - i. Drug abuse;
 - ii. Alcohol abuse;
 - iii. Diagnosed mental/emotional illnesses; or
 - iv. Medical conditions and/or specialized medical treatment.
3. To adjust prison populations via order of the Commissioner to avoid overcrowding and/or county jail backlog;
4. To provide temporary housing arrangements for inmates at times of crisis;
5. To comply with a court order;
6. To provide for the care and custody of security risk inmates;
7. To provide protective custody; or
8. At the discretion of the Commissioner.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

In (a), deleted "or" following "consensual" and substituted "Administrator" for "Superintendent" preceding "nonconsensual".

10A:10-3.7 Processing consensual interstate transfers

(a) An inmate desiring an interstate transfer shall make such request initially to the Institutional Classification

Committee (I.C.C.) on Form 822-I Inmate Request for Transfer Under Interstate Corrections Compact.

(b) The inmate's request shall be reviewed by the I.C.C. within one month of receipt of request to verify the information provided on the request.

(c) If all information provided on Form 822-I is verified and the reason for the requested transfer falls within the reasons enumerated in N.J.A.C. 10A:10-3.6, the I.C.C. shall submit the complete classification summary and the I.C.C.'s recommendation within three months of the inmate's initial request to the Administrator for review and approval or disapproval (see N.J.A.C. 10A:10-3.8).

(d) If the inmate's request is approved by the Administrator, the Administrator or designee shall forward to the appropriate Assistant Commissioner a complete set of documents along with the application and a cover letter which shall explicitly state the reason(s) the Administrator is supporting the requested transfer.

(e) If the appropriate Assistant Commissioner approves the inmate's request, all documents shall then be forwarded to the Administrator of the Interstate Corrections Compact or appropriate designee who shall determine whether the application and proposed transfer complies with the terms of the Interstate Corrections Compact, N.J.S.A. 30:7C-1 and this subchapter.

(f) Subsequent to an affirmative determination, the Administrator of the Interstate Corrections Compact or appropriate designee shall seek acceptance of the inmate by a receiving state.

(g) The inmate requesting transfer shall be notified in writing by the Administrator or designee of the decision of the New Jersey Department of Corrections regarding the inmate's request and the reason(s) if the request is rejected.

(h) If a subsequent acceptance or rejection is received, the Administrator of the Interstate Corrections Compact or appropriate designee shall notify the Administrator who, in turn, shall notify the inmate of the decision regarding the inmate's request for an interstate transfer.

(i) If another state compact member is agreeable to the desired transfer, the following steps shall be taken:

1. The existence of a current contract with the state or agency where the transfer is being contemplated must be verified;
2. A contract may either be initiated or renewed if there is no current contract with the state or agency where the contract is contemplated;
3. If necessary, a rider to the current contract may be completed and ratified;

4. Assistance shall be provided by the correctional facility, if the inmate requires assistance in understanding the terms and conditions of the transfer;

5. Form 822-II, Inmate Agreement of Waiver Regarding Interstate Transfer, shall be completed, signed and then authorized by the Administrator of the Interstate Corrections Compact or appropriate designee;

6. Contracts and amendments and renewals to contracts that are approved must be in writing and executed by both the sending and receiving states;

7. When the transfer is approved, authorized escort officers, carrying appropriate credentials identifying themselves and the inmate, shall transport the inmate to the receiving state;

8. Form 822-II, Inmate Agreement of Waiver Regarding Interstate Transfer, and any materials not previously transferred to the receiving state, shall accompany the transportation officers and the inmate to the receiving state; and

9. A receipt for the inmate, Form 822-V, Receipt for Inmate as an Interstate Transferee, shall be obtained from the receiving state and copies of the receipt shall be forwarded to the New Jersey Administrator of the Interstate Corrections Compact or appropriate designee and to the Administrator of the sending correctional facility.

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Substituted "Administrator" for "Superintendent" and "Interstate Corrections Compact" for "Deputy Compact" throughout.

Amended by R.2006 d.152, effective May 1, 2006.

See: 38 N.J.R. 99(a), 38 N.J.R. 1837(a).

In (c), made a stylistic revision; in (i)5, substituted "Form 822-II, Inmate Agreement of Waiver Regarding Interstate Transfer" for "The appropriate Form (either 822 IIA or 822-IIB)"; in(i)8, substituted "Form 822-II, Inmate Agreement of Waiver Regarding Interstate Transfer" for "Form 822-IIA or Form 822-IIB"; and in (i)9, inserted a hyphen and a comma.

10A:10-3.8 Classification summary

(a) Pursuant to the requirements of N.J.A.C. 10A:10-3.7, the Classification Department Supervisor or designee of the correctional facility where the inmate is housed shall prepare a classification summary to be forwarded to the Administrator which contains current information concerning the inmate in areas of:

1. Particular needs;
2. Age;
3. Family status;
4. Social contacts with family and friends;
5. The objective classifications score;
6. Correctional facility adjustment;
7. Educational needs and history;
8. Vocational needs and history;

9. Treatment program needs and history;
10. Military history;
11. The judgment of conviction;
12. The nature and circumstances of the present offense;
13. Parole eligibility information and current time calculation;
14. Prior convictions record;
15. Records from previous confinements regarding adjustment;
16. Detainers on file or pending disposition(s);
17. Drug dependency or involvement;
18. Sexual offenses;
19. Escape history;
20. Current psychological and psychiatric reports;
21. Keep separate status;
22. A photograph;
23. Fingerprints;
24. Medical history and recommendations which shall include:
 - i. A report on the results of a general physical examination; and
 - ii. Known medical problems of the inmate within three months prior to the review of the inmate's request for interstate transfer; and
25. Any other factor(s) pertinent to the inmate's case.

(b) The classification summary may then be forwarded to a state contemplating approval of the inmate's request to be transferred to that state.

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

In (a), substituted "Administrator" for "Superintendent".

10A:10-3.9 Written notice of nonconsensual transfers

(a) Prior to an out-of-State transfer, the inmate shall receive written notice on Form 822-III, Notice of Intent to Seek Nonconsensual Interstate Transfer, informing the inmate of the referral for an out-of-State transfer and that a hearing is scheduled before a Hearing Officer, New Jersey Department of Corrections.

(b) The notice shall be personally served upon the inmate at least 48 hours prior to the scheduled hearing and shall contain a summary of information which will be considered by the Hearing Officer.

(c) Confidential materials may be withheld from the inmate, but the information shall be made part of a confidential correctional facility record for the out-of-State transfer proceedings.

(d) The inmate shall also be given a copy of this subchapter along with Form 822-III.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

In (a), substituted "of the referral" for "that he or she has been referred" following "the inmate".

Amended by R.2006 d.152, effective May 1, 2006.

See: 38 N.J.R. 99(a), 38 N.J.R. 1837(a).

In (a), made stylistic revisions.

10A:10-3.10 Investigation of nonconsensual transfers other than emergency transfer prompted by order of the Commissioner

(a) At least 24 hours before the scheduled hearing, an investigator assigned by the Administrator shall visit the inmate to obtain names of prospective witnesses.

(b) The investigator shall obtain written statements from the named witnesses and such statements shall be included in the Hearing Officer's final record of the proceedings.

(c) The Hearing Officer may exercise discretion to limit the number of written statements obtained to avoid the collection of evidence which is merely repetitive or is not necessary for an adequate understanding of the case.

(d) When the Hearing Officer determines that the inmate is either illiterate or cannot adequately collect and present evidence on the inmate's own behalf, the inmate may choose an inmate to provide assistance. Such choice may be made from a list of available inmate paralegals who are authorized by the Administrator to assist inmates with legal services.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

In (a) and (d), substituted "Administrator" for "Superintendent".

10A:10-3.11 Hearing on nonconsensual transfers

(a) A hearing shall be conducted and the inmate may appear in-person or the hearing may be arranged and provided through video conferencing (VTC), unless the inmate refuses to appear without the use of force, or where the Hearing Officer determines that the hearing cannot be held at the inmate's cell because of the inmate's disruptive behavior.

(b) The Hearing Officer shall review the correctional facility reports, witnesses' statements and other material(s) offered as relevant and necessary for a proper understanding of the circumstances upon which the recommendation for out-of-State transfer is based.

(c) Witnesses' statements shall be read to the inmate, unless disclosure would subject the witnesses or other persons to threat of harm and/or the statements or reports are marked confidential. Where the Hearing Officer determines that clarification is desirable, the Hearing Officer may call the witnesses to appear in-person or through VTC.

(d) The inmate shall be permitted to speak on his or her own behalf and offer evidence to contest the referral for out-of-State transfer, or to provide the Hearing Officer with reasons for rejecting said recommendation.

(e) The Hearing Officer shall not grant a postponement of a hearing unless there are exceptional circumstances, such as, sudden serious illness, security problems or a lockdown.

10A:10-3.12 Decision on nonconsensual transfers

(a) The inmate shall be provided with the Hearing Officer's decision in writing on Form 822-IV, Notice of Decision Regarding Interstate Transfer, within 15 business days after the hearing, due to the time and distance considerations involved in interstate information exchange.

(b) The decision shall summarize the information relied upon and, if approved, the reason for the out-of-State transfer.

(c) Confidential information shall be strictly safeguarded and appropriately marked for the inmate's classification file.

(d) In instances when the Hearing Officer approves the nonconsensual transfer, a copy of the Hearing Officer's decision and appropriate classification data shall be forwarded to the Office of Interstate Services, Department of Corrections.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

In (a), substituted "business" for "working" preceding "days".

Amended by R.2006 d.152, effective May 1, 2006.

See: 38 N.J.R. 99(a), 38 N.J.R. 1837(a).

In (a), made a stylistic revision.

10A:10-3.13 Interstate transfer by order of the Commissioner

(a) Upon issuance of an order by the Commissioner, New Jersey Department of Corrections, Form 822-VI Notice of Emergency Transfer shall be served upon the selected inmate(s) meeting the classification and custody criteria of contracting states offering bed space for lease and/or per diem cost reimbursement. When feasible, Form 822-VI shall be served on the inmate 24 hours prior to the intended transfer and the notice shall include:

1. The conditions upon which the order by the Commissioner was predicated;
2. The name of the state and the correctional facility to which the inmate shall be transferred;
3. The address of the correctional facility;
4. The security designation of the correctional facility;
5. The custody level of the inmate;
6. The listing of personal property which may be transferred to the receiving correctional facility;

7. The arrangement(s) for personal property which cannot be transferred to the receiving correctional facility; and

8. Any additional pertinent information.

(b) In emergency situations when Form 822-VI cannot be served upon the inmate prior to transfer, as set forth in (a) above, the form shall be served within 30 calendar days of the transfer.

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

In (b), inserted "calendar" preceding "days".

Amended by R.2006 d.152, effective May 1, 2006.

See: 38 N.J.R. 99(a), 38 N.J.R. 1837(a).

Rewrote (b).

Amended by R.2013 d.019, effective February 4, 2013.

See: 44 N.J.R. 2275(a), 45 N.J.R. 210(a).

Deleted former (a)6; and recodified former (a)7 through (a)9 as (a)6 through (a)8.

10A:10-3.14 Review of requests from other state compact members for transfer of inmates to New Jersey

(a) Any request from another state or jurisdiction for incarceration of out-of-State inmates in New Jersey shall be forwarded to the Administrator of the Interstate Corrections Compact or appropriate designee.

(b) The Administrator of the Interstate Corrections Compact or appropriate designee shall ensure that the request contains minimally the information outlined in N.J.A.C. 10A:10-3.8.

(c) The request shall then be forwarded to the appropriate Assistant Commissioner for approval or disapproval.

(d) Upon receipt of the determination of the appropriate Assistant Commissioner, the Administrator of the Interstate Corrections Compact or appropriate designee shall determine whether the application and transfer comply with the Interstate Corrections Compact and this subchapter. The requesting state shall then be notified of the decision by the Administrator of the Interstate Corrections Compact or appropriate designee.

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Substituted references to the Interstate Corrections Compact for the Deputy Compact throughout.

10A:10-3.15 Receiving state acting as agent for sending state

(a) Whenever the duly constituted authorities in a state compact member have entered into a contract with another state compact member and decide that confinement in, or transfer of an inmate to, a correctional facility within the territory of another state compact member is necessary or desirable, said officials may direct the confinement be within

a correctional facility within the territory of that state compact member. The receiving state may act as agent for the sending state.

(b) Inmates confined in a correctional facility pursuant to the terms of the Interstate Corrections Compact shall be, at all times, subject to the legal jurisdiction of the sending state and may, at any time, be removed therefrom for any of the following reasons:

1. Transfer to a prison or other correctional facility within the sending state;

2. Transfer to another correctional facility in a third party compact state in which the sending state may have a contractual or other right to confine inmates;

3. Release on probation or parole;

4. Discharge; or

5. Any other purposes permitted by the Interstate Corrections Compact or this subchapter, provided that the sending state continues to be obligated to such reimbursements as may be required pursuant to the terms of any contract.

(c) Each receiving state shall provide to the sending state regular reports on the inmate(s) that the sending state has in correctional facilities of the receiving state pursuant to the Interstate Corrections Compact.

(d) The regular report shall include a conduct and work record of each inmate and shall be certified to the official designated by the sending state, in order that:

1. Each inmate's record may be reviewed by the designated official in determining and altering the disposition of said sending state; and

2. The report may be a source of information for the sending state.

(e) Any decision of the sending state pertaining to the administration of the terms of the inmate's sentence for which the sending state retains jurisdiction pursuant to the Interstate Corrections Compact shall be conclusive upon and not reviewable within the receiving state.

(f) If, however, at the time the sending state seeks to remove an inmate from a correctional facility in the receiving state and there is a pending criminal charge(s) against the inmate within such state or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharge from prosecution or other form of proceeding, imprisonment or detention for such offense.

Amended by R.2013 d.019, effective February 4, 2013.

See: 44 N.J.R. 2275(a), 45 N.J.R. 210(a).

In (a), substituted "may" for "shall" following "receiving state".

10A:10-3.16 Administration of conditions of confinement, hearings and administrative proceedings to which inmates are entitled

(a) All inmates who may be confined to a correctional facility pursuant to the provisions of the Interstate Corrections Compact shall be treated in a reasonable and humane manner and shall be treated equally to similarly situated inmates under the jurisdiction of the receiving state with regard to:

1. The terms and conditions of confinement;
2. Custody status;
3. Program eligibility and participation (with the exception that provisions may be made for the approval of the sending state to certain program assignments, such as work release);
4. Medical services; and
5. Psychiatric services.

(b) The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate correctional facility of the sending state. An inmate serving a New Jersey sentence out-of-State maintains the right to legal access by writing to the New Jersey Department of Corrections, Office of Educational Services at PO Box 863, Trenton, New Jersey 08625-0863. Such a request shall:

1. Be in writing;
2. Be legible and intelligible;
3. Contain the full name and address of the petitioner; and
4. Contain a clear and concise statement summarizing/identifying the information or subject matter sought such as, but not limited to, a specific topic, case or law.

(c) An inmate confined pursuant to the Interstate Corrections Compact may be entitled to any hearing(s) in accordance with the statutes of the sending state. The hearing(s) may be conducted by the appropriate authorities of the sending state or by appropriate authorities of the receiving state who are acting as agents of the sending state.

(d) The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state.

(e) In the event such hearing or hearings are held before officials of the receiving state, the governing statute providing for the hearing is that of the sending state. The nature and character of the hearing process is governed by the regulations and procedures administering such hearings in the receiving state.

(f) Inmates in the receiving state, pursuant to the Interstate Corrections Compact, shall be subject to the receiving state's rules and regulations governing discipline and disciplinary sanctions except that any sanction providing for the loss of

commutation credits shall not affect the terms and conditions of the sending state's sentence in excess of the amount provided for by the laws and regulations governing disciplinary sanctions in the sending state.

(g) The record of the hearing or hearings, as requested by the sending state, will be made. Said record, together with any recommendations of the receiving state's hearing official(s), shall be transmitted forthwith to the sending state's official(s) before whom the hearing would have been held if it had taken place in the sending state. A final determination shall be made by the sending state.

(h) In any and all proceedings conducted pursuant to the provisions of this subchapter, the officials of the receiving state act solely as agents of the sending state and no final determination shall be made in any matter pertaining to the administration of the imposed sentence except by the appropriate officials of the sending state.

Amended by R.2008 d.149, effective June 16, 2008.

See: 40 N.J.R. 1056(a), 40 N.J.R. 3726(a).

Rewrote the introductory paragraph of (b); and added (b)1 through (b)4.

10A:10-3.17 Release/return of transferred inmate

(a) Except as established in (b) below, a transferred inmate from New Jersey shall be returned to New Jersey for a court appearance in which the inmate is named as a defendant or plaintiff or when subpoenaed, and for the opportunity for a reasonable amount of consultation with counsel in connection with such court proceedings.

(b) Court appearances may be arranged and provided through video conferencing (VTC) when equipment is available and operational and when the court is amenable to the use of VTC.

(c) An inmate may be returned to the sending state at the request of the receiving state due to behavior which poses a threat to the safe, secure, and orderly operation of the correctional facility in the receiving state. In such cases where the inmate is not charged with a prohibited act by the receiving state due to the expedited nature of the inmate's return, the sending state may charge the inmate based on such written reports and/or affidavits as are forwarded by the receiving state.

(d) A disciplinary report shall be prepared by the Office of Interstate Services as soon as possible after the return, but in any case, within no more than five business days of the inmate's return.

(e) All disciplinary procedures as stated in N.J.A.C. 10A:4 shall be followed with the exception that appeals shall be forwarded to the Office of the appropriate Assistant Commissioner, New Jersey Department of Corrections.

(f) Any inmate eligible for parole who is confined pursuant to the Interstate Corrections Compact shall be released within the sending state, unless the inmate and the sending

and receiving states agree that the inmate will be paroled to a party who will provide supervision for the parolee under the Interstate Compact for Adult Supervision.

(g) Any inmate who has been returned to the sending state or maintained in the receiving state shall be released at the expiration of maximum sentence within the sending state, unless the receiving state and the sending state agree, in writing, that the inmate may be released within the receiving state.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Added (g).

Amended by R.2011 d.013, effective January 3, 2011.
See: 42 N.J.R. 2196(a), 43 N.J.R. 54(a).

Deleted former (c); recodified former (d) through (f) as (c) through (e); added new (f); and in (g), substituted "Any" for "Except as established in this section, an".

Amended by R.2013 d.019, effective February 4, 2013.
See: 44 N.J.R. 2275(a), 45 N.J.R. 210(a).

In (g), inserted "or maintained in the receiving state" and inserted a comma preceding "unless".

10A:10-3.18 Rights of parents or guardians

The parents, guardian, trustee or other person or persons entitled under the statutes of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in exercising any power with respect to any inmate confined pursuant to the terms of the Interstate Corrections Compact.

10A:10-3.19 Escapees and transportation

(a) An inmate who escapes from a correctional facility in which the inmate is confined pursuant to the Interstate Corrections Compact shall be deemed a fugitive from the sending state and from the state in which the correctional facility is located.

(b) In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for initiating extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

(c) Authorized transportation officers of the sending state shall be permitted to transport inmates pursuant to the Interstate Corrections Compact through any and all United States territories or states without interference.

SUBCHAPTER 4. AGREEMENT ON DETAINERS

10A:10-4.1 Statutory authority

(a) N.J.S.A. 2A:159A-1 et seq. sets forth the Interstate Agreement on Detainers (IAD). The Interstate Agreement on Detainers is intended to:

1. Encourage the orderly, expeditious disposition of an untried indictment, information or complaint, which has been lodged against a prisoner by any other state that is a party to the Agreement; and

2. Provide cooperative procedures for securing the transfer of an inmate to or from a receiving state.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Agreement Administrator for the Interstate Agreement on Detainers. The Commissioner may delegate the responsibility and authority to administer the IAD to a Deputy Agreement Administrator.

10A:10-4.2 Definitions

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

"Detainer" means a notification filed with the correctional facility in which the inmate is serving a sentence, advising that the inmate is wanted to face a pending criminal charge in another jurisdiction. The detainer must be based on an untried indictment, information, or complaint, an escape warrant based on an indictment, and must charge the individual with commission of a criminal offense. The detainer shall not include a charge for probation or parole violation, any matter related to the U.S. Immigration and Customs Enforcement (ICE), or any warrant to return an inmate to another jurisdiction solely for sentencing purposes.

"IAD" means the Interstate Agreement on Detainers.

"Receiving state" is the state in which the untried criminal charge(s) is pending. The receiving state may be the United States of America, the District of Columbia, or any State or territory that has codified the Agreement on Detainers Act into its statutes.

"Sending state" is the state in which the inmate is incarcerated at the time either the inmate initiates a request for final disposition of a detainer filed by a receiving state or the request for custody of the inmate is initiated by the prosecuting authority in the receiving state. All references to "sending state" in this subchapter shall mean the State of New Jersey.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Amended "Detainer".

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", substituted "U.S. Immigration and Customs Enforcement (ICE)" for "Immigration and Naturalization Service".

Amended by R.2013 d.019, effective February 4, 2013.
See: 44 N.J.R. 2275(a), 45 N.J.R. 210(a).

In definition "Detainer", inserted a comma following "information", and substituted "offense" for "offence".

10A:10-4.3 Eligibility criteria for the Interstate Agreement on Detainers

(a) The Interstate Agreement on Detainers may be utilized by an inmate in the sending state, or a prosecuting authority in a receiving state, provided the following criteria has been established:

1. A detainer from the receiving state has been filed with the correctional facility in which the inmate is incarcerated;
2. The inmate against whom the detainer has been filed is serving a term of imprisonment for a criminal conviction;
3. The inmate against whom the detainer has been filed is not adjudged to be mentally ill; and
4. The detainer is based on an untried indictment, information or complaint that charges the inmate with the commission of a criminal offense.

10A:10-4.4 Receipt of detainer

(a) The following action shall be taken by the correctional facility upon receipt of a detainer filed by a receiving state:

1. The Administrator or designee shall advise the inmate of the right to dispose of the detainer(s) under the IAD, and shall ensure that an original and two copies of Form I Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition, are provided to the inmate. A separate Form I shall be completed for each receiving state that has filed a detainer against the inmate;
2. The inmate shall sign Form I and indicate whether to dispose of the charge(s); and
3. The classification officer shall ensure that Form I is copied and distributed in accordance with the instructions printed on the form.