

(e) Where possible, an Administrator, Associate Administrator, Assistant Superintendent or Director of Custody Operations shall review and approve or disapprove a request to place an inmate in Prehearing Detention.

(f) Any time spent in Prehearing Detention shall be credited to any subsequent detention sentence imposed.

Amended by R.1991 d.276, effective June 3, 1991.

See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Provisions previously mandated are now suggested thereby providing more flexibility.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In (a), inserted "safe, secure and"; in (c)7, deleted "and" from the end; in (c)8, substituted "that" for "which" preceding "indicates", deleted "that" following "indicates" and substituted "; and" for a period at the end; added (c)9; in (d), substituted "custody staff" for "shift"; in (e), inserted "Associate Administrator,"; and in (f), substituted "to" for "against" and inserted "detention".

Case Notes

Prison inmate was properly placed in detention while awaiting hearing on drug-trafficking charges. *Negron v. Department of Corrections*, 220 N.J. Super. 425, 532 A.2d 735 (App.Div.1987).

10A:4-10.2 Placement in Disciplinary Detention

(a) Inmates shall be placed in Disciplinary Detention by the Adjustment Committee or Disciplinary Hearing Officer for a period not to exceed 15 calendar days.

(b) If it shall be determined that the inmate has committed a new major violation during the period of Disciplinary Detention, this time may be extended. In response to the commission of this new infraction, the Adjustment Committee or Disciplinary Hearing Office shall provide the inmate with a due process hearing pursuant to N.J.A.C. 10A:4-9, Disciplinary Procedures, prior to extending the 15-calendar day period of Disciplinary Detention. The period of Disciplinary Detention shall not extend beyond 30 calendar days, except as provided in N.J.A.C. 10A:4-6, Chronic Violator.

(c) In the event of further infractions in the Unit or correctional facility, the Adjustment Committee or Disciplinary Hearing Officer shall consider alternative programs for regulating the inmate's behavior within acceptable limits.

(d) The inmate shall be entitled to appear before the Adjustment Committee or Disciplinary Hearing Officer unless the inmate refuses to appear or the inmate's presence would pose a threat to the security of the correctional facility. Under no circumstances shall force be used to compel the attendance of the inmate at the disciplinary hearing. A refusal to appear shall be entered upon the Adjudication of Disciplinary Report form by the Disciplinary Hearing Officer or Adjustment Committee Chairperson.

(e) The time an inmate spends in Disciplinary Detention shall be proportionate to the offense committed, taking into

consideration the inmate's prior conduct, the inmate's specific program needs and other relevant factors.

(f) If at any time during the inmate's confinement in Disciplinary Detention, the mental health staff become aware of the mental decompensation of an inmate, the health care staff shall immediately provide appropriate intervention services and refer the matter to the correctional facility Administrator or designee.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Amended by R.1999 d.187, effective June 7, 1999 (operative July 1, 1999).

See: 31 N.J.R. 831(a), 31 N.J.R. 1487(b).

Added (f).

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In (a) and (b), inserted "calendar"; and in (b), inserted "-calendar".

10A:4-10.3 Separate facilities

(a) Facilities utilized to separate inmates from the general population shall be physically separate so that materials allowed inmates in one section cannot be passed to inmates in Disciplinary Detention.

(b) An inmate may be confined to his or her room or housing unit to serve Disciplinary Detention under appropriate circumstances, such as, but not limited to, whether the inmate is already confined in a close custody unit, overcrowding, or in emergent situations such as, riots and fires. All requirements of the Detention Program shall apply when the inmate serves Disciplinary Detention separate from the general population or when Disciplinary Detention is served in the inmate's room or housing area.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Case Notes

Disciplinary rules do not give rise to creation of a "liberty interest" requiring a prisoner to become part of the general prison population; no violation of due process involved in the solitary confinement of a prisoner as a result of prison overcrowding (citing former N.J.A.C. 10:34-1.7, 10:35-6, 49, and 69.1 through 70.6). *Gibson v. Lynch*, 652 F.2d 348 (3rd Cir.1981) certiorari denied 103 S.Ct. 3123, 462 U.S. 1137, 77 L.Ed.2d 1375 (1983).

10A:4-10.4 Ventilation, heating, lighting and sanitation in Detention Program

(a) Ventilation and reasonable temperature shall be maintained on a 24 hour basis. Light of sufficient intensity shall be maintained to allow visual observation of inmates at all times. When admitted, inmates shall not be placed in cells that lack cleanliness or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to ensure the cells are kept secure, clean and sanitary.

(b) Toilets that are flush controlled from outside the cells shall be flushed as often as necessary to maintain healthy sanitary conditions.

(c) Inmates confined to "DRY" cells shall be permitted to shower at least once every three days. Drinking water shall be available upon request.

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In (a), substituted "ensure" for "insure"; and in (b), substituted "healthy" for "good".

10A:4-10.5 Visual observation

Inmates in Disciplinary Detention shall be observed regularly and frequently by custody staff. There shall be no physical obstruction to visual observation of inmates at any time. Full or partial curtains shall not be permitted over the cell door.

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

Substituted "custody" for "custodial".

10A:4-10.6 Personal items

(a) All inmates shall be admitted to Disciplinary Detention dressed in basic issue correctional clothing after a thorough search for contraband except that:

1. No belts shall be permitted; and
2. Shoestrings may be removed or shoes may be replaced with cloth or paper slippers at the discretion of the Administrator or designee.

(b) Each inmate shall be provided with the following items for use in the cell to the same extent as such items are provided for inmates in the general population:

1. Clothing required for use in the cell;
2. Bedding and mattresses;
3. Personal hygiene supplies (including soap, deodorant, toothbrush and toothpaste or powder, towel, toilet paper, and female sanitation supplies for women);
4. Utensils and supplies for adequately cleaning the cell;
5. Eyeglasses;
6. Reading material (see N.J.A.C. 10A:4-10.15);
7. Writing materials; and
8. Legal materials.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

In (b)3 provided for female sanitation supplies.

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In introductory paragraph of (a), substituted "basic issue" for "normal"; and in (a)2, inserted "or designee".

10A:4-10.7 Withdrawal of personal items or special activities

(a) Whenever in the judgment of the supervisor of the Unit there shall be imminent danger that an inmate will destroy any item or will injure himself or herself, another person, or damage property with any item, the supervisor may direct that the inmate be deprived of the item, if practicable. In such case, however, every effort shall be made to supply a substitute for the item or to permit the inmate to use the item under supervision of a custody staff member.

(b) Whenever an inmate shall be deprived of any usually authorized item or activity, a written report shall be immediately forwarded to the Administrator or designee, identifying the inmate, the item or activity of which the inmate has been deprived and the reason thereof.

(c) Whenever the circumstances are such that all the inmate's clothing is removed, the Administrator or designee shall be contacted immediately for approval of this action.

(d) Arrangements shall be made for a physician or other appropriate staff to visit the inmate as soon as possible after the withdrawal of personal item(s) or activities.

(e) In all cases, the item or activity shall be restored to the inmate as soon as restoration appears to be consistent with safety.

(f) No inmate shall ever, under any circumstances, be deprived of any of these items or activities for the purposes of punishment or discipline.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

10A:4-10.8 Medical and psychiatric services

(a) Inmates in Disciplinary Detention shall receive a daily visit by a member of the health care provider staff which can be a nurse, paramedic, doctor or other authorized health care personnel.

(b) Medical and psychiatric emergencies shall be attended to immediately. Requests for medical attention for inmates in non-emergency situations shall be responded to by the physician, or a health care provider staff member designated by the physician within 24 hours.

(c) Whenever it shall appear that an inmate is suffering from an emotional or psychiatric disturbance, arrangements shall be made for a psychiatric or psychological evaluation. Documentation of the evaluation findings shall be forwarded to the Administrator or designee by the health care provider staff member who conducted the evaluation prior to completion of the shift of the health care provider staff member on the day the evaluation is conducted. A copy of the evaluation findings documentation shall be placed in the inmate's medical record.