

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, Sec. 2, cl.2 and 18 U.S.C. App. Sec. 2.

Source and Effective Date

R.2003 d.325, effective July 14, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Chapter Expiration Date

Chapter 10, Interjurisdictional Agreements and Statutes, expires on July 14, 2008.

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

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. 1036(a), 34 N.J.R. 1431(a).

Chapter 10, Interjurisdictional Agreements and Statutes, was readopted as R.2003 d.325, effective July 14, 2003. See: Source and Effective Date. See, also, section annotations.

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 TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10A:10-1.1 Purpose
- 10A:10-1.2 Scope
- 10A:10-1.3 Definitions
- 10A:10-1.4 Forms
- 10A:10-1.5 Records

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. INTERSTATE CORRECTIONS COMPACT

- 10A:10-3.1 Statutory authority
- 10A:10-3.2 Definitions

- 10A:10-3.3 Applicability of compact
- 10A:10-3.4 Eligibility criteria for interstate transfer consideration
- 10A:10-3.5 Riders to contracts
- 10A:10-3.6 Reasons for interstate transfer
- 10A:10-3.7 Processing consensual interstate transfers
- 10A:10-3.8 Classification summary
- 10A:10-3.9 Written notice of nonconsensual transfers
- 10A:10-3.10 Investigation of nonconsensual transfers other than emergency transfer prompted by order of the Commissioner
- 10A:10-3.11 Hearing on nonconsensual transfers
- 10A:10-3.12 Decision on nonconsensual transfers
- 10A:10-3.13 Interstate transfer by order of the Commissioner
- 10A:10-3.14 Review of requests from other state compact members for transfer of inmates to New Jersey
- 10A:10-3.15 Receiving state acting as agent for sending state
- 10A:10-3.16 Administration of conditions of confinement, hearings and administrative proceedings to which inmates are entitled
- 10A:10-3.17 Release/return of transferred inmate
- 10A:10-3.18 Rights of parents or guardians
- 10A:10-3.19 Escapees and transportation

SUBCHAPTER 4. AGREEMENT ON DETAINERS

- 10A:10-4.1 Statutory authority
- 10A:10-4.2 Definitions
- 10A:10-4.3 Eligibility criteria for the Interstate Agreement on Detainers
- 10A:10-4.4 Receipt of detainer
- 10A:10-4.5 Inmate request for transfer
- 10A:10-4.6 Request for temporary custody of an inmate
- 10A:10-4.7 Time for trial
- 10A:10-4.8 Service of sentence
- 10A:10-4.9 Failure to comply with the terms of the IAD
- 10A:10-4.10 Escape from custody
- 10A:10-4.11 Written procedures

SUBCHAPTER 5. EXTRADITION

- 10A:10-5.1 Statutory authority
- 10A:10-5.2 Request for extradition and related document handling
- 10A:10-5.3 Role of the classification officer
- 10A:10-5.4 Exceptions to the mandatory use of the Uniform Criminal Extradition Act

SUBCHAPTER 6. INTERNATIONAL TRANSFER

- 10A:10-6.1 Definitions
- 10A:10-6.2 Commissioner's authority
- 10A:10-6.3 Eligibility criteria for international transfer
- 10A:10-6.4 Role of the classification officer
- 10A:10-6.5 Role of the Administrator of the correctional facility
- 10A:10-6.6 Role of Office of Interstate Services
- 10A:10-6.7 Role of the Commissioner, New Jersey Department of Corrections
- 10A:10-6.8 Referral to the United States Department of Justice, Office of International Affairs
- 10A:10-6.9 Transfer of offender

SUBCHAPTER 7. NOTIFICATION OF FOREIGN CONSULS WHEN FOREIGN NATIONALS ARE IMPRISONED

- 10A:10-7.1 Statutory authority
- 10A:10-7.2 Notification of consular post
- 10A:10-7.3 Visits and correspondence with a foreign national inmate
- 10A:10-7.4 Appointment of a guardian or trustee
- 10A:10-7.5 Death of a foreign national inmate
- 10A:10-7.6 Written internal management procedures

SUBCHAPTER 1. GENERAL PROVISIONS

10A:10-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish requirements for the interstate transfer of an inmate(s) for confinement in a correctional facility(ies);
2. Establish 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. Establish requirements in accordance with the Uniform Criminal Extradition Act (see N.J.S.A. 2A:160-6 et seq.);
4. Establish 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. Establish 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.

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 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.

"State" (upper case "S") means the State of New Jersey; "state" (lower case "s") means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

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".

10A:10-1.4 Forms

(a) The following forms related to the Interstate Corrections Compact shall be reproduced by each correctional facility from originals that are available by contacting the Administrative Rules Unit:

1. 822-I Inmate Request for Transfer Under Interstate Corrections Compact;
2. 822-IIA Agreement of Waiver—Regarding Transfer of Custody;
3. 822-IIB Agreement of Waiver—Regarding Interstate Transfer;

4. 822-III Notice of Intent to Seek Non-Consensual Interstate Transfer;
5. 822-IV Notice of Decision Regarding Interstate Transfer;
6. 822-V Receipt for Inmate as an Interstate Transferee; and
7. 822-VI Notice of Emergency Transfer.

(b) The following forms relate to the Interstate Agreement on Detainers. Forms necessary for use by the correctional facility shall be available by contacting the Office of Interstate Services, New Jersey Department of Corrections:

1. Form 867-I Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition;
2. Form 867-II Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Informations or Complaints;
3. Form 867-III Certificate of Inmate Status;
4. Form 867-IV Offer to Deliver Temporary Custody;
5. Form 867-V Request for Temporary Custody;
6. Form 867-VI Evidence of Agent's Authority to Act for Receiving State;
7. Form 867-VII Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer;
8. Form 867-VIII Prosecutor's Acceptance of Temporary Custody Offered in Connection with Another Prosecutor's Request for Disposition of a Detainer; and
9. Form 867-IX Prosecutor's Report on Disposition of Charges.

(c) The following forms related to International Transfer are available by contacting the Office of Interstate Services, New Jersey Department of Corrections:

1. Form I—Transfer Inquiry;
2. Form II—Inmate Information Provided to Treaty Nation; and
3. Form III—Notice Regarding International Prisoner Transfer.

(d) The following forms related to notification of a foreign consul when a foreign national is committed to the custody of the New Jersey Department of Corrections are available by contacting the Office of Interstate Services.

1. 849-I Report of Imprisonment of a Foreign National; and
2. 849-IV Death of an Offender.

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

Added a new (b) and recodified former (b) as (c).
Administrative change.

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

Recodified from N.J.A.C. 10A:10-1.3 by R.2003 d.325, effective August 4, 2003.

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

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

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

Added (d).

10A:10-1.5 Records

The Administrator or designee shall ensure that the computerized inmate information recordkeeping system(s) is updated with information relative to the interstate or international transfer or extradition of an inmate.

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

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

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. INTERSTATE CORRECTIONS COMPACT

10A:10-3.1 Statutory authority

(a) N.J.S.A. 30:7C-1 et seq. established the Interstate Corrections Compact which provides that the State of New Jersey may enter into a contract with any other signatory state of the United States whereby prisoners from contracting states may be transferred between such states and confined in correctional facilities outside the state of conviction on a reciprocal basis or as otherwise provided for by the contract or a rider.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Administrator of the Interstate Corrections Compact. The Commissioner may delegate this authority to an appropriate designee who shall have full authority to act on all matters pertaining to the Interstate Corrections Compact.

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), rewrote the second sentence.

10A:10-3.2 Definitions

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

“Administrator of the Interstate Corrections Compact” means the Commissioner of the Department of Corrections of the State of New Jersey.

“Consensual interstate transfer” means the interstate transfer of an inmate from the New Jersey Department of Corrections to a receiving state with the consent of that inmate.

“Nonconsensual interstate transfer” means the interstate transfer of an inmate from the New Jersey Department of Corrections to a receiving state without the consent of that inmate.

“State compact member” means any state having membership in the Interstate Corrections Compact.

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

Added “Administrator of the Interstate Corrections Compact”, “Consensual interstate transfer”, and “Nonconsensual interstate transfer”; deleted “Legal rights”, “Receiving state”, “Sending state”, and “State”.

10A:10-3.3 Applicability of compact

(a) The Interstate Corrections Compact is applicable to inmates under the jurisdiction of the New Jersey Department of Corrections, except those inmates sentenced under N.J.S.A. 2A:164-3 or 2C:47-1 et seq.

(b) The New Jersey Department of Corrections shall accept only adult state sentenced inmates from contracting states.

10A:10-3.4 Eligibility criteria for interstate transfer consideration

(a) Inmates considered for interstate transfer must be sentenced for a term of imprisonment such that the earliest parole or release dates are not less than one and a half years from the date of application for transfer. Exceptions to this rule shall be made on a case-by-case basis and may include:

1. Inmates in protective custody;
2. Inmates considered to be security risks;
3. Inmates who require special treatment; and/or
4. Consensual transfers.

(b) Inmates with detainers for open charges shall not be considered for interstate transfer.

(c) Inmates who are sentenced to death pursuant to N.J.S.A. 2C:11-3 shall not be considered for interstate transfer.

(d) The types of inmates who may be considered for interstate transfers under the Interstate Corrections Compact are inmates:

1. Who are bona fide residents of the prospective receiving state to which transfer is desired;

2. Whose behavior constitutes a threat to the safety, security or orderly operation of any New Jersey correctional facility;

3. Whose continued presence in any New Jersey correctional facility poses a threat to themselves;

4. Who can demonstrate a substantial and bona fide reason for being transferred to another state; or

5. Who are residents of New Jersey and meet the classification and custody criteria of out-of-State correctional facilities where bed space is offered for lease or per diem costs by a state which is a state compact member of the Interstate Corrections Compact. Interstate transfer of inmates of this type shall be considered:

- i. When an order is issued by the Commissioner, New Jersey Department of Corrections;

- ii. In response to a correctional facility emergency, such as, but not limited to, overcrowding or a catastrophic occurrence; and/or

- iii. In accordance with a court order.

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 (c) and recodified former (c) as (d).

10A:10-3.5 Riders to contracts

(a) The three types of riders which may be affixed to authorized contracts between the New Jersey Department of Corrections and another state compact member are as follows:

1. A rider to extend the duration of the contract;
2. A rider to set forth the particulars of individual transferring arrangements or special care and custody; and
3. A rider mutually agreeing to a change or amendment to the original contractual terms.

(b) Riders shall be ratified by the signatures of the Administrator of the Interstate Corrections Compact or appropriate designee and the appropriate counterpart in the other state compact member.

(c) Year-to-year riders may be utilized to extend the original contract.

(d) A rider setting forth the particulars of an inmate's transfer shall contain information regarding:

1. The inmate's identification;
2. The inmate's sentence;
3. Any specialized housing or programming;
4. Paroling arrangements; and
5. The method of exchange agreed upon in the inmate's case, such as:

- 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. The appropriate Form (either 822 IIA or 822 IIB) 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-IIA or Form 822-IIB Agreement of Waiver 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.

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 out-of-State transfer, the inmate shall receive written notice on Form 822 III, Notice of Intent to Seek Non-Consensual Interstate Transfer, informing the inmate of the referral for 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".

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 teleconferencing (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".

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 date of transfer;
7. The listing of personal property which may be transferred to the receiving correctional facility;
8. The arrangement(s) for personal property which cannot be transferred to the receiving correctional facility; and
9. Any additional pertinent information.

(b) In emergency situations when time does not permit Form 822 VI Notice of Emergency Transfer to be served upon the inmate 24 hours prior to transfer, Form 822 VI shall be served upon the inmate 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".

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 shall 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.

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