

CHAPTER 5

CLOSE CUSTODY UNITS

Authority

N.J.S.A. 30:1B-6 and 30:1B-10; and P.L. 2007, c. 204.

Source and Effective Date

R.2008 d.97, effective March 25, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on September 21, 2015. See: 47 N.J.R. 978(a).

Chapter Historical Note

Chapter 5, Close Custody Units, was adopted as R.1986 d.409, effective October 6, 1986. See: 18 N.J.R. 1067(a), 18 N.J.R. 2016(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, Close Custody Units, was readopted as R.1991 d.358, effective June 17, 1991. See: 23 N.J.R. 1260(a), 23 N.J.R. 2143(a).

Subchapter 7, Temporary Close Custody, was adopted as R.1992 d.365, effective September 21, 1992. See: 24 N.J.R. 1676(a), 24 N.J.R. 3314(a). Pursuant to Executive Order No. 66(1978), Chapter 5, Close Custody Units, expired on June 17, 1996.

Chapter 5, Close Custody Units, was adopted as new rules by R.1996 d.369, effective August 5, 1996. As part of R.1996 d.369, Subchapter 6, Transitional Protective Custody, was repealed. See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Subchapter 6, Security Threat Group Management Unit, was adopted as new rules by R.1998 d.465, effective September 8, 1998. See: 30 N.J.R. 2148(a), 30 N.J.R. 3242(b).

Pursuant to Executive Order No. 66(1978), Chapter 5, Close Custody Units, expired on August 5, 2001.

Chapter 5, Close Custody Units, was adopted as new rules by R.2002 d.388, effective December 2, 2002. See: 34 N.J.R. 2929(a), 34 N.J.R. 4205(a).

Chapter 5, Close Custody Units, was readopted as R.2008 d.97, effective March 25, 2008. As a part of R.2008 d.97, Subchapter 1, Introduction, was renamed General Provisions; and Subchapter 4, Capital Sentence Unit (C.S.U.), was repealed, effective April 21, 2008. See: Source and Effective Date. See, also, section annotations.

Subchapter 6, Security Threat Group Management Unit, was recodified in part to Subchapter 11 of Chapter 3 of this Title and repealed in part by R.2011 d.277, effective November 7, 2011. See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 5, Close Custody Units, was scheduled to expire on March 25, 2015. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:5-1.1 Purpose

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

1. Assigning inmates to close custody units;
2. Reviewing the progress of inmates assigned to close custody units;
3. Releasing inmates from close custody units, when appropriate;
4. Operating the Management Control Unit, Administrative Close Supervision Unit, and Protective Custody Unit; and
5. Placement in temporary close custody.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)4, deleted "Capital Sentence Unit" preceding "Protective Custody Unit"; and in (a)5, substituted "temporary close custody" for "Temporary Custody".

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

In (a)4, substituted "and" for a comma following "Segregation Unit" and deleted ", and Security Threat Group Management Unit" following "Custody Unit".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (a)4, substituted "Close Supervision Unit," for "Segregation Unit".

10A:5-1.2 Scope

This chapter shall be applicable to the Division of Operations unless otherwise indicated.

10A:5-1.3 Definitions

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

"Adjustment Committee" means the committee within a correctional facility that is authorized to hear and adjudicate inmate violations of prohibited acts.

"Administrative Segregation Level Program" means a two-level program established within an Administrative Close Supervision Unit. The levels are described as follows:

1. Level 1 is the program entry level in which an inmate's possessions, activities, privileges, and amenities shall be most highly restricted; and
2. Level 2 is the level in which an inmate's possessions, activities, privileges, and amenities shall be less restricted than level 1 but more restricted than general population.

"Disciplinary detention" means removal of an inmate from the general population or any other housing unit of a correctional facility to a short-term close custody unit because of a disciplinary infraction(s).

"Management Control Unit (M.C.U.);" means a close custody unit to which an inmate may be assigned if the inmate poses a substantial threat to the safety of others; of damage to or destruction of property; or of interrupting the operation of a State correctional facility.

"Management Control Unit Review Committee (M.C.U.R.C.);" means the Committee that is responsible for hearing cases of inmates referred for placement in the Management Control Unit (M.C.U.) and for conducting three month status reviews of inmates assigned to M.C.U.

"Special Administrative Segregation Review Committee (S.A.S.R.C.);" means the committee members designated by the Director, Division of Operations responsible for the bimonthly review of the status of the inmates assigned to all Administrative Close Supervision Units.

"Temporary close custody" means the non-punitive removal of an inmate from the inmate general population, or other assigned housing, with restriction to the inmate's cell or to a close custody unit for a period not to exceed 72 hours, for special observation or investigation.

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 introductory paragraph, substituted "unless the context clearly indicates otherwise;" for a period; deleted the definitions for "Capital Sentence Unit (C.S.U.)", "Close Custody Unit", "Custody status", "Disciplinary hearing officer", "Disciplinary report", "Disciplinary sanction",

"On-the-spot correction", "Prehearing detention" and "Protective custody".

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In definition "Disciplinary detention", inserted "or any other housing unit"; and deleted definition "Special Classification Committee (S.C.C.)".

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

Deleted definitions "Identification process", "Intelligence section of the Special Investigations Division", "Prehearing Security Threat Group Management Unit Status", "Security threat group", "Security threat group activity(ies)", "Security threat group core member", "Security Threat Group Management Unit", "Security Threat Group Management Unit Hearing Committee", "Security Threat Group Management Unit Phase Program" and "Security threat group member".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In definition "Adjustment Committee", substituted "committee" for "Committee" and "of" for "or"; in definition "Special Administrative Segregation Review Committee (S.A.S.R.C.)", substituted "Close Supervision" for "Segregation"; deleted definition "Administrative segregation"; and rewrote definition "Administrative Segregation Level Program".

10A:5-1.4 Forms

(a) The following forms related to close custody units 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. 141—I Authorization for Prehearing M.C.U.; and
2. 146—I Voluntary—Protective Custody Consent.

(b) The following form related to the Management Control Unit is available by contacting the New Jersey State Prison:

1. L.C. 36 Criteria Record Sheet.

(c) The following forms shall be printed by the Bureau of State Use Industries—DEPTCOR and each correctional facility shall purchase a supply of needed forms by contacting DEPTCOR:

1. 146—II Notice of Protective Custody Hearing - Involuntary; and
2. 146—III Protective Custody Hearing Adjudication.

Administrative change.

See: 35 N.J.R. 1137(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".

Petition and Action on Petition for Rulemaking.

See: 39 N.J.R. 5377(a).

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)2, inserted "and" at the end; deleted former (a)3 and (a)4; recodified former (a)5 as (a)3; added new (c)1 and (c)2; and recodified former (c)1 through (c)6 as (c)3 through (c)8.

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

In (a)1 and (c)1, inserted "and" at the end; in (a)2, substituted a period for "; and" at the end; in (c)2, substituted a period for a semicolon at the end; and deleted (a)3 and (c)3 through (c)8.

SUBCHAPTER 2. MANAGEMENT CONTROL UNIT (M.C.U.)

10A:5-2.1 Referrals for placement in the Management Control Unit (M.C.U.)

(a) Recommendations for placement of inmates in the M.C.U. may be submitted to the Management Control Unit Review Committee (M.C.U.R.C.) by:

1. The Director, Division of Operations;
2. The Institutional Classification Committee (I.C.C.);
3. The Disciplinary Hearing Officer/Adjustment Committee;
4. Special Administrative Segregation Review Committees;
5. The Administrator; and/or
6. The Director of Custody Operations.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)4, inserted "Special".

10A:5-2.2 Composition of the Management Control Unit Review Committee (M.C.U.R.C.)

(a) The M.C.U.R.C. shall be composed of:

1. The Associate Administrator or Assistant Superintendent;
2. A representative from the Education or Social Services Department and a representative from Mental Health Services; and
3. The person designated as the Custody Supervisor of the M.C.U.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)2, inserted "and a representative from Mental Health Services"; and in (a)3, inserted "Custody".

10A:5-2.3 Responsibilities of the Management Control Unit Review Committee (M.C.U.R.C.)

(a) The M.C.U.R.C. shall meet at least once a week, when necessary, to deliberate on matters related to its responsibilities. The M.C.U.R.C. shall be responsible for:

1. Hearing the cases of inmates referred for placement in M.C.U.; and
2. Reviewing the progress of each inmate placed in M.C.U. at least every three months to determine whether continued placement in the Unit is appropriate.

10A:5-2.4 Criteria for assigning inmates to the Management Control Unit (M.C.U.)

(a) The following criteria shall be utilized by the Management Control Unit Review Committee (M.C.U.R.C.) in determining the appropriateness of assigning an inmate to the M.C.U.:

1. Disciplinary records during the inmate's present term of confinement and any previous terms served. Weight shall be assigned to this criterion where there are a substantial number of minor charges, or one or more charges of a serious nature;
2. Past criminal offenses, including those for which incarcerated, which indicate the capability and propensity to commit or precipitate serious acts of disruption or violence;
3. Number and location of previous institutionalizations including the disciplinary records, progress reports, classification reports, or any other records which indicate involvement in serious misbehavior;
4. Reports by professional staff (for example, psychologists, social workers, psychiatrists);
5. Reports indicating present involvement in criminal activities in the community or within the correctional facility;
6. Evidence of an attitude which indicates an unwillingness to follow rules and obey orders;
7. Inability to maintain a satisfactory work record as indicated in reports by work supervisors and/or frequency of job changes;
8. Information indicating unsatisfactory adjustment to, or performance in, treatment or rehabilitative programs; and
9. Evidence of the inmate's inability or unwillingness to house with other inmates in a nondisruptive and nondestructive manner.

10A:5-2.5 Assignment to the Management Control Unit (M.C.U.)

(a) An inmate shall be assigned to the M.C.U. when the M.C.U.R.C., after considering the criteria in N.J.A.C. 10A:5-2.4, concludes that the inmate poses a substantial threat:

1. To the safety of others;
2. Of damage to or destruction of property; or

3. Of interrupting the operation of a State correctional facility.

(b) Procedures for M.C.U.R.C. hearings described in N.J.A.C. 10A:5-2.6 shall be followed and completed prior to placement in M.C.U.

(c) If there is a need for immediate placement in the M.C.U., such placement shall be made in accordance with N.J.A.C. 10A:5-2.8.

10A:5-2.6 Procedures for the Management Control Unit Review Committee (M.C.U.R.C.) hearings

(a) An inmate being considered for assignment to the M.C.U. shall be given written notice, utilizing Form L.C. 36 Criteria Record Sheet, at least 24 hours prior to appearing before the M.C.U.R.C. The staff member delivering the notice shall sign the form and indicate the time and date of delivery.

(b) Form L.C. 36 Criteria Record Sheet shall:

1. Delineate the criteria, which will be utilized in determining the inmate's suitability for the M.C.U.;
2. Provide an outline of the major factors in the particular inmate's case history;
3. Contain concise statements of the factual basis, not merely conclusions, on which the recommendation of M.C.U. placement is based; and
4. Not contain information deemed confidential.

(c) The inmate shall also be notified that he or she may obtain the help of an inmate paralegal to act as a counsel substitute to assist in the adequate collection and presentation of the facts in the inmate's case and to be present at the hearing as a spokesperson (see N.J.A.C. 10A:6-2.12 and 2.14).

(d) Illiterate inmates or inmates otherwise demonstrating a need for assistance shall receive the assistance of a consenting inmate, or a staff member assigned to this function by the M.C.U.R.C. An interpreter shall be utilized if needed.

(e) The M.C.U.R.C. Chairperson shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence that is not necessary for an adequate understanding of the case. The Chairperson shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness and to ensure that the hearing does not develop into an adversarial proceeding.

(f) Unless there are exceptional circumstances, unavoidable delays or reasonable postponements, inmates shall be seen by the M.C.U.R.C. within 10 business days of being notified that they are being considered for placement in the M.C.U.

(g) At the meeting with the M.C.U.R.C., the inmate shall be allowed to appear in person and to testify, unless the inmate's appearance would pose a serious threat to the safety or security of the correctional facility, the M.C.U.R.C., or unless the inmate refuses to appear. In those cases where an inmate is not allowed to appear in person, the inmate shall be permitted to present the case through a counsel substitute and through submission of such written materials as the inmate believes appropriate.

(h) At the hearing, the inmate shall be informed of all adverse information bearing on the case, with the exception of information designated confidential by the M.C.U.R.C.

(i) If the proposed M.C.U. placement is based in part on information from a confidential informant, the inmate shall be provided with a concise statement of facts establishing that the informant is credible or his or her information is reliable and the informant's statement (either in writing or as reported) is in language that is factual, not conclusive and is based upon the informant's personal knowledge of the matters contained in his or her statement.

(j) When information utilized by the M.C.U.R.C. is deemed confidential and cannot be fully disclosed to the inmate, the M.C.U.R.C. shall direct the inmate and the inmate's representative to leave the meeting while this information is being presented or discussed. Whenever practical, the inmate shall be informed of the confidential information in accordance with the provisions of this section.

(k) When the inmate appears before the M.C.U.R.C., the Chairperson shall explain to the inmate the reason for the inmate's appearance, the nature of the proceeding and the particular areas of the M.C.U.R.C.'s concern.

(l) The inmate shall be permitted to present documentary evidence related to the inmate's case. The inmate shall also be permitted to call witnesses on the inmate's own behalf when permitting the inmate to do so will not risk the maintenance of security or the orderly operation of the correctional facility. The M.C.U.R.C. shall have the discretion, however, to keep the hearing within reasonable limits.

(m) The Chairperson of the M.C.U.R.C. shall call those witnesses deemed to be reasonably available and whose testimony is necessary for a proper understanding of the circumstances of the particular case. Repetitive witnesses need not be called. For purposes of this subsection, "repetitive witnesses" are witnesses who provide the same account as a previous witness(es). "Repetitive witnesses" are not intended to refer to the calling of a witness(es) who previously provided written documentary evidence. The Chairperson shall have the discretion to refuse to call witnesses that may create a risk of reprisal. Unavailable witnesses may be asked to submit written statements. Witnesses requested by the inmate who are called should be questioned by members of the M.C.U.R.C. or the counsel

substitute. Inmates without a counsel substitute may request that certain questions be directed by Committee members to any witnesses.

(n) The M.C.U.R.C. Chairperson shall exercise control over all presentations to exclude irrelevant information and to prevent harassment, abuse or repetition. If the Chairperson shall refuse to call one or more witnesses, the reasons for each such refusal shall be separately specified on the decision form.

(o) During the formal review with the inmate, the M.C.U.R.C. may give guidance to the inmate with respect to the reason for the rules and internal management procedures of the correctional facility.

(p) Prior to rendering a decision to place or maintain an inmate in the M.C.U., the M.C.U.R.C. shall consider alternatives to M.C.U. placement as a means of addressing the correctional facility concerns related to the inmate. These alternatives shall include, but not be limited to, transfer to another correctional facility, reduction in privileges, or transfer to another housing unit in general population.

(q) When the M.C.U.R.C. notes a particular treatment need which can be met by existing treatment services, and the inmate indicates a willingness to participate in such treatment, the M.C.U.R.C. shall make the appropriate referral.

(r) A record shall be maintained of the proceedings of the M.C.U.R.C. to include, but not be limited to:

1. The substance of the evidence presented;
2. A summary of the statements of participants in the hearing;
3. A log of the evidence considered;
4. A written indication of the alternatives considered in accordance with (p) above; and
5. The decision of the M.C.U.R.C.

(s) The recorder of the M.C.U. hearing proceedings shall certify that the record is a true and accurate representation of the proceedings.

(t) Within one calendar week, the M.C.U.R.C. shall provide a written notice of decision to the inmate advising the inmate of the reason for the decision and a summary of the evidence relied upon. The decision of the M.C.U.R.C. to place an inmate in the M.C.U. shall be based on the information contained in the record. In the event a record contains information received from a confidential informant, the M.C.U.R.C. shall provide a summary of facts upon which the Committee concluded that:

1. The informant is credible and that his or her information is reliable;

2. The informant's statement (either in writing or as reported) is in language that is factual rather than a conclusion; and

3. The informant's statement and information is based on his or her personal knowledge of the matters.

(u) In the written notice of decision to the inmate being admitted or retained in M.C.U., the M.C.U.R.C. shall point out the elements of the inmate's behavior or attitude which are deemed to be unsatisfactory and shall advise the inmate that the next formal M.C.U.R.C. review on the inmate's case will be held in three months.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a), inserted "sign the form and" and deleted ", and signature of staff member" following "delivery"; in (c), substituted "he or she" for "the inmate" and "an" for "another" and inserted "paralegal" and "(see N.J.A.C. 10A:6-2.12 and 2.14)"; in (j), inserted a comma following the first occurrence of "inmate"; in (o), substituted "internal management procedures" for "policies"; and rewrote (t).

10A:5-2.7 Appeal of Management Control Unit Review Committee (M.C.U.R.C.) decisions

(a) At the time the inmate is provided with the M.C.U.R.C.'s decision, the inmate shall be advised of the opportunity to have the Administrator or designee review the M.C.U.R.C. decision. The inmate shall have one calendar week to submit a letter of appeal. The Administrator or designee may approve or modify any M.C.U.R.C. decision as deemed appropriate. The Administrator or designee may also order further hearings where appropriate.

(b) During the Administrator's review, the following factors shall be considered:

1. Whether there was compliance with N.J.A.C. 10A:5-2.6;
2. Whether the decision of the M.C.U.R.C. was based on substantial evidence; and
3. Whether the decision rendered was appropriate to the inmate's case.

(c) The Administrator's decision shall be forwarded to the inmate in writing within seven business days following receipt of the appeal.

Petition and Action on Petition for Rulemaking.

See: 39 N.J.R. 5377(a).

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b)3, substituted "the decision rendered was" for "decision was rendered".

10A:5-2.8 Use of Prehearing Management Control Unit prior to the Management Control Unit Review Committee (M.C.U.R.C.) meeting

(a) The inmate may be placed in Prehearing M.C.U. by order of the Administrator, Associate Administrator or Assistant Superintendent utilizing Form 141—I Authorization for

Prehearing M.C.U. when there is reasonable evidence that, if the inmate remains in general population, there is an immediate threat:

1. To the safety of others;
2. Of damage to or destruction of property; or
3. Of interrupting the safe, secure and orderly operation of the correctional facility.

(b) The inmate shall be entitled to a hearing within 10 business days following placement into Prehearing M.C.U.

(c) An inmate placed in Prehearing M.C.U. shall be given written notice, utilizing Form L.C. 36 Criteria Record Sheet, as described in N.J.A.C. 10A:5-2.6 within 24 hours following placement in Prehearing M.C.U.

(d) A separate Form 141—I shall be completed for each inmate and, whenever possible, Form 141—I should be completed prior to placing the inmate in Prehearing M.C.U.

(e) When an emergency exists which precludes completion of Form 141—I prior to placement, the form shall be completed immediately following placement. After all appropriate parties have signed Form 141—I, it shall be placed in the inmate's classification folder and a copy shall be placed in the inmate's M.C.U. folder.

(f) Additional copies of completed Form 141—I may be kept on file, for recordkeeping purposes, in any areas designated by the Administrator and the Director of Custody Operations.

10A:5-2.9 Use of Prehearing Management Control Unit during an emergency

(a) In the event an emergency is declared, inmates may be placed in Prehearing M.C.U. status should their behavior fall into the placement criteria as outlined in N.J.A.C. 10A:5-2.8.

(b) When an unusually large number of inmates are involved, the procedures set forth in this subchapter shall be modified in order to maintain an effective level of security and order, and at the same time, attempt to provide each inmate with the maximum M.C.U. hearing safeguards under these unusual circumstances.

(c) The following procedures shall be implemented and remain in effect until normal operations resume:

1. Inmates who have been identified as being a threat to the secure and orderly operation of the correctional facility shall remain in Prehearing M.C.U. at housing assignments to be designated by the Administrator or designee.

2. Each inmate shall receive a written notice explaining that:

- i. An emergency exists;

ii. The inmate has been identified as a threat to the security and/or orderly operation of the correctional facility; and

iii. The inmate will receive an in-person hearing as soon as possible.

3. The schedule for the hearings shall be affected by the number of inmates involved and the need to ensure security. A schedule of such hearings shall be issued by the Administrator.

4. The Administrator shall designate hearing officers who are familiar with classification materials and the M.C.U. process to conduct hearings as promptly as possible. The inmate shall be permitted to appear in person unless doing so would be unduly hazardous to the safety of the hearing officer or security of the correctional facility.

5. At the hearing, the inmate shall be informed verbally of all adverse information bearing on the inmate's case with the exception of information designated confidential. When reviewing confidential information, procedures set forth in N.J.A.C. 10A:5-2.6 shall apply.

6. The inmate shall be permitted to speak on his or her own behalf or to submit a written statement. If the inmate is illiterate or otherwise demonstrates a need for assistance in presenting his or her statement, a staff member may be assigned to assist the inmate at the hearing.

7. The inmate shall receive a written notice of decision within 10 calendar days.

8. Review procedures, after initial classification to M.C.U. during these emergency conditions, shall be those set forth in N.J.A.C. 10A:5-2.6 and 2.10. These review procedures shall be commenced within three months following initial placement with subsequent reviews held every three months.

9. Conditions of confinement as set forth in this subchapter shall be modified as is reasonably necessary during the pending period of the emergency to ensure security and the continued orderly operation of the correctional facility.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (c)6, substituted "his or her" for "the inmate's".

10A:5-2.10 Review of inmates placed in the Management Control Unit (M.C.U.)

(a) When the M.C.U.R.C. determines that placement in the M.C.U. is appropriate for a particular inmate, a preliminary determination shall also be made as to when the continued need for the M.C.U. program will be reviewed. In any case, a formal review of each inmate in the M.C.U. shall be made a minimum of every three months.

(b) A written record shall be maintained by the M.C.U.R.C. of all reviews of inmates in the M.C.U. This record shall be kept in a separate file in addition to being

made a permanent part of the inmate's case folder. All M.C.U.R.C. reports shall be signed by all members.

(c) The inmate shall be permitted to appear at all reviews of the inmate's case unless doing so would be unduly hazardous to the safety and security of the correctional facility, or the inmate refuses to appear.

(d) Any member of the M.C.U.R.C. may request a review for an inmate in the M.C.U. earlier than was previously determined.

(e) At each review, the M.C.U.R.C. shall again review the information upon which the decision was based to assign the inmate to the M.C.U. Such information shall include:

1. Disciplinary reports;
2. Program participation, such as, but not limited to, education, counseling, recreational activities; and
3. Records of the inmate's behavior and attitude while in the Unit such as, custody and professional staff reports which must periodically be filed describing pertinent observations, both positive and negative, of the inmate's behavior and attitude while in the M.C.U.

(f) An inmate shall be released from the M.C.U. when, in the opinion of the M.C.U.R.C., the inmate no longer poses a substantial threat:

1. To the safety of others;
2. Of damage to or destruction of property; or
3. Of interrupting the secure and/or orderly operation of a State correctional facility.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (e)2, substituted "Program" for "Programs" and "recreational" for "recreation" and inserted a comma following "participation".

10A:5-2.11 Annual review of inmate status in the Management Control Unit (M.C.U.)

(a) The Department of Corrections shall conduct a hearing at least annually to review the status of the inmate in order to determine whether an inmate's release from M.C.U. is appropriate.

(b) The inmate has the initial burden of demonstrating at this review, that the inmate has:

1. Participated in the required programs, jobs, educational and recreational programs afforded the inmate pursuant to this section;
2. Complied with the criteria detailed by the M.C.U.R.C.;
3. Remained free from prohibited acts preceded by an asterisk for the program year; and

4. Agreed to reaffirm the obligation to adhere to the rules and regulations for inmate behavior, as described in the Handbook on Discipline and correctional facility inmate handbooks.

(c) If the inmate demonstrates participation and compliance in accordance with (b) above, the inmate will be considered for release from the M.C.U. and the inmate will be released unless the Department of Corrections can demonstrate through substantial evidence, including behavior, correctional facility adjustment, and disciplinary history that the inmate continues to pose an identifiable threat:

1. To the safety of others;
2. Of damage to, or destruction of property; or
3. Of interrupting the secure and/or orderly operation of a State correctional facility.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In the introductory paragraph of (c), inserted a comma following "evidence", "behavior" and "adjustment", and substituted "correctional facility" for "and attitude".

10A:5-2.12 Ventilation, heating, lighting and sanitation

(a) Proper ventilation, lighting, room temperatures, cleanliness and properly functioning sanitary fixtures shall be maintained in cells within the M.C.U.

(b) The Administrator or designee shall be responsible to provide that daily inspections shall be made to help ensure that the cells, corridors, toilets, showers and other areas within the M.C.U. are kept secure, clean and sanitary.

10A:5-2.13 Food

(a) M.C.U. inmates shall be served the regular correctional facility meals from the "Menu of the Day" unless a special diet is prescribed by a physician or a religious vegetarian diet has been approved by the correctional facility chaplain.

(b) Disposable utensils shall be used when necessary.

10A:5-2.14 Grooming, showering and shaving

(a) Hair care services shall be provided as needed.

(b) Each inmate in the M.C.U. shall be permitted to shave and shower at least two times a week, unless permitting these activities would present an undue security hazard. Every effort shall be made to permit each inmate in M.C.U. to shave and shower every other day.

10A:5-2.15 Medical and psychiatric services

(a) Emergency medical and psychiatric care for inmates in the M.C.U. shall be provided immediately.

(b) Requests for inmate medical attention by staff or inmates in non-emergency situations shall be responded to by health care staff who visit the M.C.U. daily.

(c) Routine medical and psychiatric services shall be provided equivalent to that which is provided to inmates in the general population.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).
In (b), inserted "inmate".

10A:5-2.16 Personal items

(a) All inmates shall be admitted to the M.C.U. dressed in clothing issued by the correctional facility after a thorough search for contraband.

(b) The following items, as approved by the Administrator or designee, shall be permitted or made available to inmates upon admission to the M.C.U. as soon as reasonably practicable and in accordance with M.C.U. internal management procedures:

1. Clothing required for use in cell;
2. Bedding and mattress;
3. Personal hygiene supplies;
4. Eating utensils;
5. Eyeglasses;
6. A wristwatch;
7. Religious indicia;
8. Legal materials;
9. Postage stamps; and
10. Reading and writing materials.

(c) The possession and use of radios, televisions, typewriters and other appliances in the M.C.U. shall be subject to the same guidelines as those developed by the Administrator for the general population or in accordance with Unit internal management procedures.

(d) Inmates in M.C.U. shall be permitted the same number of personal and library books as the general population. Written internal management procedures shall be in effect for requesting, receiving and returning reading materials to the correctional facility's library and Inmate Law Library.

(e) Personal items, as approved by the Administrator or designee, shall be:

1. Permitted in accordance with M.C.U. internal management procedures; and
2. Purchased from an authorized source of sale.

10A:5-2.17 Disposition of inmate's personal possessions not authorized in the Management Control Unit (M.C.U.)

(a) Inmate personal possessions not authorized in the M.C.U. shall not be stored by the correctional facility.

(b) Disposition of non-permissible personal possessions shall be handled in accordance with N.J.A.C. 10A:1-11, Personal Property of Inmates.

10A:5-2.18 Correctional facility clothing, bedding and linen

Written internal management procedures shall be established which provide for each inmate in the M.C.U. to launder clothing, towels, sheets and other linens on a weekly basis.

10A:5-2.19 Legal services

(a) Inmates shall be provided access to legal services in accordance with N.J.A.C. 10A:6, Inmate Access to Courts.

(b) Inmates shall also have access to the Inmate Law Library by means of inmate paralegals who shall provide legal reference materials, services and supplies to M.C.U. inmates to the same degree as afforded inmates in the general population (see N.J.A.C. 10A:6-2.12 and 2.14).

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b), substituted "paralegals" for "law library clerks" and inserted "(see N.J.A.C. 10A:6-2.12 and 2.14)".

10A:5-2.20 Correspondence, visits and telephone calls

(a) Correspondence, visiting or telephone calling opportunities shall be available to inmates in the M.C.U. but conducted in accordance with any special precautions and M.C.U. internal management procedures as deemed necessary or appropriate by the Administrator.

(b) No staff member shall monitor the content of conversation between an inmate and the inmate's attorney or spiritual advisor during visits.

(c) Restrictions of visits or telephone calls for inmates in the M.C.U. shall be made in accordance with this section.

10A:5-2.21 Exercise and recreation

(a) Efforts shall be made to provide opportunities for exercise and recreation consistent with custodial considerations. Each inmate in the M.C.U. shall be permitted the minimum of two hours exercise each week and every effort shall be made to provide at least five hours per week, unless compelling security, safety or weather reasons dictate otherwise. When exercise is not permitted, the reasons shall be well documented.

(b) The Administrator may take emergency action in suspending exercise or recreation privileges for any or all inmates until the emergency has passed. In any such emergency, the Administrator shall notify the Commissioner or designee.

10A:5-2.22 Education

(a) Educational programs shall be comparable to those available to inmates in general population to the extent possible in accordance with security considerations, resources, budgetary constraints and M.C.U. internal management procedures.

(b) A member of the educational staff shall be assigned to develop individualized educational programs for approved inmates who are assigned to M.C.U.

(c) Educational programs and services shall be provided for all inmates up to age 20 and up to age 22 for inmates with educational disabilities. An inmate may choose not to participate in available educational programs after the inmate has reached the age of 16. A decision not to participate in an educational program(s) shall be in writing and signed by the inmate. Until the inmate reaches the age of 18, a parent or guardian must also sign a decision not to participate in an educational program(s). A decision to participate in an educational program(s) may be made at any time thereafter, until the inmate reaches age 22.

10A:5-2.23 Visits by professional staff

(a) Inmates in the M.C.U. shall be visited daily during the business week by a member of the correctional facility's professional staff to determine any emergency or unusual needs of the inmates and to make referrals to appropriate departments or staff members.

(b) Spiritual counseling shall be available on an individual basis as coordinated by the correctional facility's chaplain and consistent with the M.C.U. internal management procedures.

10A:5-2.24 Work opportunities

(a) Work opportunities shall be provided to all inmates in the M.C.U. in keeping with the internal management procedures of the Unit.

(b) Pay and work time credits shall be commensurate with the skill level and the amount of work responsibilities involved.

(c) Education and program credits shall be commensurate with credits available to the general population.

10A:5-2.25 Social, psychological and counseling program

(a) Treatment programs shall be available in the M.C.U. to at least the same extent as available to the general inmate

population. Social workers and a psychologist shall be assigned to the M.C.U. and an area or office shall be provided for these services. The professionals shall provide services consistent with those provided to the general population and shall work closely with the M.C.U. supervisor and staff.

(b) Counseling sessions shall be arranged upon the request of an inmate confined in the M.C.U. Counseling shall be coordinated by the professional staff assigned to the M.C.U.

(c) Two interview rooms shall be available within the M.C.U. for use by the assigned professional staff, the M.C.U. supervisor, the parole counselor, and professional representatives of outside agencies such as, but not limited to, the Social Security Administration, the Veteran's Administration, and vocational rehabilitation agencies.

10A:5-2.26 Commissary

(a) Purchase of commissary items in the M.C.U. shall be permitted within the Unit in accordance with internal management procedures developed by the M.C.U. supervisor and approved by the Administrator or designee.

(b) Procedures for obtaining commissary items shall be the same as for the general population.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a), inserted "in accordance with" and "or designee".

10A:5-2.27 Withdrawal of personal items or activities

(a) Whenever, in the judgment of the custody staff member in charge of the M.C.U., there is imminent danger that an inmate will destroy property, clothing or any items usually permitted in the cell, or injure self, or another person, the custody staff member may deprive the inmate of such items, if practicable. In such cases, however, effort shall be made to provide a substitute for the item or to permit the inmate to use the item under the supervision of the custody staff member.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Administrator or designee and the M.C.U. supervisor which shall identify the inmate and the item or activity.

(c) The M.C.U.R.C. shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the M.C.U.R.C.

(d) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a), inserted "property," deleted "the inmate" following "permitted" and "or to property with such items," following "another person," and substituted "injure self, or" for "do injury to self, to" and "cases" for "case".

10A:5-2.28 Special custodial responsibilities

(a) Because of the increased need for close security within the M.C.U., the frequency and intensity of certain custodial functions shall be increased. Thorough cell searches may be conducted as often as once a week if found necessary for certain inmates or as often as twice a month for the entire population of the M.C.U. Spot-checks of cells may be conducted at any time.

(b) Despite the increased need for security, precautions shall be taken to ensure that the inmates in the M.C.U. are not subjected to unnecessary limitations of their personal privacy. The M.C.U. supervisor or another person acting on the direct or standing orders of the Administrator must authorize any non-routine cell searches.

10A:5-2.29 Disciplinary action within the Management Control Unit (M.C.U.)

(a) The rules set forth in N.J.A.C. 10A:4, Inmate Discipline, shall be in full force and effect in the M.C.U.

(b) Except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c), no special restriction of privilege on disciplinary grounds, such as denial of outside recreation or of work opportunities, may be continued in M.C.U. for longer than 30 days. If, in the judgment of the Disciplinary Hearing Officer/Adjustment Committee, there are special custodial reasons for desiring to continue special restriction of the inmate's privileges for longer than 30 days, the Disciplinary Hearing Officer/Adjustment Committee shall recommend assignment to administrative segregation to the Institutional Classification Committee (I.C.C.).

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

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

In (b), updated the N.J.A.C. reference.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b), substituted "continue" for "maintain", inserted "the inmate's" and deleted "upon an inmate" following "privileges".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (b), substituted "administrative segregation" for "Administrative Segregation".

10A:5-2.30 Program monitoring, review and modification

The M.C.U.R.C. shall continuously monitor and review all aspects of the M.C.U. When the M.C.U.R.C. desires to make any significant deviation from the M.C.U. Program as delineated in this subchapter, a request shall be submitted in writing through the Administrator to the Assistant Commissioner, Division of Operations.

10A:5-2.31 Compliance with all other rules

In addition to the rules contained in this subchapter, all other Department rules applicable to inmates shall apply with equal force to inmates in the M.C.U.

SUBCHAPTER 3. ADMINISTRATIVE SEGREGATION

10A:5-3.1 Admission to administrative segregation

(a) Whenever the Disciplinary Hearing Officer/Adjustment Committee imposes a sanction which includes administrative segregation, the administrative segregation part of the sanction shall be referred by the Disciplinary Hearing Officer to the Institutional Classification Committee (I.C.C.) for review at the Committee's next regularly scheduled meeting.

(b) In considering the sanction, the I.C.C. shall consider any relevant factors including, but not limited to:

1. The circumstances and gravity of the disciplinary infraction;
2. The reason(s) given by the Disciplinary Hearing Officer/Adjustment Committee for the sanction imposed;
3. The inmate's previous disciplinary record; and
4. Whether other available dispositions are adequate to regulate the inmate's behavior within acceptable limits.

(c) Confirmation shall be made if the I.C.C. determines that the sanction is appropriate and within acceptable limits, and where the inmate's presence in the general population could pose a threat to the safe, secure and orderly operations of the correctional facility.

(d) The I.C.C. shall provide written notice to the inmate of its decision confirming, modifying or overruling the administrative segregation sanction together with the reasons therefor.

(e) A copy of the I.C.C. notice shall be filed in the inmate's classification folder.

(f) Not all correctional facilities within the Department of Corrections contain Administrative Close Supervision Units. If an inmate receives a sanction that includes administrative segregation but is housed in a correctional facility that does not have an Administrative Close Supervision Unit, the sanction first must be reviewed by the I.C.C. of the correctional facility in which the inmate is housed. If the sanction is confirmed, the referral for transfer to an Administrative Close Supervision Unit shall be forwarded to the CRAF Intake Unit where the transfer shall be initiated.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (f), substituted "Close Supervision" for "Segregation" throughout.

10A:5-3.2 Special Administrative Segregation Review Committee (S.A.S.R.C.)

(a) The S.A.S.R.C. is responsible for providing a bi-monthly review, or more frequent reviews if deemed necessary, of the status of inmates assigned to all Administrative Close Supervision Units.

(b) The Director of the Division of Operations shall designate voting members who shall be an Associate Administrator/Assistant Superintendent/Captain or designee to serve on the S.A.S.R.C. The S.A.S.R.C. shall be composed of:

1. One voting member who shall be an Associate Administrator or Assistant Superintendent from a facility designated by the Director;
2. One voting member who shall be a representative from CRAF; and
3. One voting member who shall be a representative from the Division of Operations.

(c) The Director shall designate a chairperson from among the voting members to serve a term, as determined by the Director.

(d) An in-house psychiatrist or psychologist and a representative of the Classification Department shall attend each meeting of the S.A.S.R.C. but they will have no voting power.

(e) The Director may designate a supervisory custody staff member of the rank of Captain or above to attend each meeting of the S.A.S.R.C., who shall have voting power. In the event that a custody staff member of the rank of Captain or above is unavailable, a custody staff member of the rank of Lieutenant who shall have voting power may be designated to attend.

(f) The S.A.S.R.C. shall meet as frequently as is necessary to accomplish the business of the S.A.S.R.C., and the meetings shall be held at a facility designated by the members.

(g) An inmate who has been assigned to an Administrative Close Supervision Unit for a period of 365 days or less shall have his or her case reviewed by the S.A.S.R.C. every 60 days, or more frequently if deemed necessary by the S.A.S.R.C., to review the inmate's level assignment and to evaluate the inmate's behavior while in the Administrative Close Supervision Unit.

(h) An inmate who has been assigned to an Administrative Close Supervision Unit for a period of more than 365 days shall have his or her case reviewed by the S.A.S.R.C. every six months, or more frequently if deemed necessary by the S.A.S.R.C. The review shall include the inmate's level assignment and the Committee shall evaluate the inmate's behavior while in the Administrative Close Supervision Unit.

(i) The S.A.S.R.C. review shall not necessitate the inmate's presence, although the Committee may, where it deems necessary, require the inmate to appear, unless he or she refuses to appear without the use of force.

(j) Upon review of the inmate's level assignment and behavior, the S.A.S.R.C. may determine that the inmate should be released from the Administrative Close Supervision Unit. The S.A.S.R.C. shall determine that an inmate should

be released from the Administrative Close Supervision Unit when it concludes that:

1. The initial need for placement in the Administrative Close Supervision Unit no longer exists;
2. The inmate has clearly demonstrated by his or her behavior that he or she can and will adequately conform to the rules and regulations of correctional facilities;
3. The inmate's presence in the general population will not pose a threat to the safe, secure and orderly operations of a correctional facility;
4. The inmate's presence in the general population prior to completion of the sanction as specified by the Disciplinary Hearing Officer/Adjustment Committee would not adversely affect the goals of a correctional facility; and/or
5. The inmate has a history or presence of a medical condition or mental illness and continued confinement in administrative segregation is likely to add to the inmate's medical or mental decompensation.

(k) If the S.A.S.R.C. determines not to release the inmate from the Administrative Close Supervision Unit, the inmate shall be so advised in writing, together with the reasons therefor, unless security considerations preclude their disclosure, in which case a notation as to the Committee's reasons and an explanation of how security would be adversely affected shall be placed in the inmate's folder.

(l) If the S.A.S.R.C. determines to release the inmate, the Committee shall give the inmate written notice of the decision. The inmate shall be:

1. Released into the general population of the correctional facility in which he or she has been confined in the Administrative Close Supervision Unit;
2. Referred to the M.C.U.R.C. for placement in the M.C.U.;
3. Referred for a protective custody hearing; or
4. Referred to the CRAF Intake Unit for transfer to a correctional facility as determined by the S.A.S.R.C.

(m) If the inmate is transferred to general population and wishes a transfer to another correctional facility, the inmate shall submit a request for transfer to the I.C.C.

(n) Inmates shall be scored with the Reclassification Instrument prior to release from the Administrative Close Supervision Unit and the score shall be considered by the S.A.S.R.C. when making inmate assignments. The S.A.S.R.C. is authorized to assign inmates to an appropriate correctional facility in accordance with the guidelines established for the I.C.C.

(o) The appropriate Director shall be contacted for assistance when the transfer of an inmate from administrative

segregation status to another correctional facility cannot be completed because of a lack of available bed space.

(p) Following the decision of the S.A.S.R.C. to transfer an inmate to another correctional facility, the S.A.S.R.C. shall refer the inmate to the appropriate staff member of the CRAF Intake Unit who shall be responsible for immediately arranging transportation of the inmate to the designated correctional facility.

Amended by R.2005 d.445, effective December 19, 2005.

See: 37 N.J.R. 3200(a), 37 N.J.R. 5013(a).

In (l), recodified former 3 and 4 as 4 and 5, and added new 3.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Rewrote (h); in the introductory paragraph of (l), substituted "the Committee" for "it" and "the" for "its" preceding "decision"; in (l)2, inserted "placement in"; and in (p), inserted "the S.A.S.R.C. shall refer the inmate to the appropriate staff member of" and "who".

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

Deleted former (l)3; and recodified former (l)4 and (l)5 as (l)3 and (l)4.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted "Close Supervision" for "Segregation" throughout; rewrote (b) and (j)5; in (c), deleted "six-month or extended" preceding "term", and in (n), substituted "I.C.C." for "I.L.C.C.".

10A:5-3.3 Separate facilities

Whenever possible, areas utilized for Administrative Close Supervision Units shall be physically separate from other programs in the correctional facility.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted "Close Supervision" for "Segregation".

10A:5-3.4 Ventilation, heating, lighting, sanitation and observation

(a) Ventilation and reasonable temperature shall be maintained on a 24-hour basis.

(b) Light of sufficient intensity shall be maintained to allow visual observation of inmates at all times.

(c) Partial curtains may be permitted over the cell door, at the discretion of the Administrator.

(d) When admitted, inmates shall not be placed in the cells that lack cleanliness or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to ensure that the cells are kept secure, clean and sanitary.

(e) Toilets that are flush controlled from outside the cells shall be flushed as often as is necessary to maintain good sanitary standards.

10A:5-3.5 Food

(a) Segregated inmates shall be served the regular correctional facility meals from the "Menu of the Day" unless a special diet is prescribed by a physician or a religious vege-

tarian diet has been approved by the correctional facility chaplain.

(b) Disposable utensils shall be used when necessary.

10A:5-3.6 Grooming, showering and shaving

(a) Barber and hair care services shall be provided as needed.

(b) Each inmate in an Administrative Close Supervision Unit shall be given the opportunity to shave and shower not less than three times a week, unless permitting these activities would present an undue security hazard.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (b), substituted "Close Supervision" for "Segregation".

10A:5-3.7 Medical and psychiatric services

(a) A member of the medical staff, which can be a registered nurse, nurse practitioner, doctor, or other authorized health care personnel, shall be available in the Administrative Close Supervision Unit on a daily basis to assess medical needs. Any inmate wishing to see a doctor shall notify the medical staff member or housing custody staff member of his or her sick call request.

(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 medical person designated by the physician.

(c) Whenever it appears that an inmate is suffering from an emotional or psychiatric disturbance, arrangements shall be made for a psychiatric or psychological evaluation.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (c), substituted "appears" for "shall appear".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (a), inserted a comma following the first occurrence of "doctor", and substituted "Close Supervision" for "Segregation".

10A:5-3.8 Personal items

(a) A Director, Division of Operations or designee shall, in accordance with the Administrative Segregation Level Program, develop a written list of authorized personal property items and the amounts of personal property items authorized for retention by inmates while confined in an Administrative Close Supervision Unit.

(b) All inmates admitted to an Administrative Close Supervision Unit shall be permitted to retain only those personal property items and amounts of personal property as are set forth on the list of authorized, permissible items for inmates in an Administrative Close Supervision Unit developed under (a) above.

(c) Unauthorized, non-permissible personal property shall be handled in accordance with N.J.A.C. 10A:1-11.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (a) and (b), substituted "Close Supervision" for "Segregation" throughout.

10A:5-3.9 Correctional facility clothing, bedding and linen

The issue and exchange of correctional facility clothing, bedding, linen, and the laundry service shall be handled in accordance with unit internal management procedures or on the same basis as is available to the general inmate population.

10A:5-3.10 Inmate legal service

Legal services shall be made available to inmates assigned to an Administrative Close Supervision Unit. Legal services shall be in accordance with the provisions set forth in N.J.A.C. 10A:6, Inmate Access to Courts.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted "Close Supervision" for "Segregation".

10A:5-3.11 Reading material

Inmates in Administrative Close Supervision Units shall be permitted to retain in their possession a reasonable amount of reading material. Procedures shall be in effect permitting inmates access to books and periodicals from the correctional facility library and Inmate Law Library.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted "Close Supervision" for "Segregation".

10A:5-3.12 Correspondence, visits, and telephone calls

(a) Inmates in Administrative Close Supervision Units shall have the same correspondence opportunities as inmates in the general population.

(b) Each correctional facility that has an Administrative Close Supervision Unit shall provide each inmate in the Unit the opportunity to receive a minimum of one non-contact visit per 30 calendar days.

(c) Each correctional facility that has an Administrative Close Supervision Unit shall provide each inmate in the Unit the opportunity to make a minimum of one collect telephone call per week, excluding legal telephone calls (see N.J.A.C. 10A:6-2.8).

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Section was "Correspondence, visits and telephone calls". Substituted "Close Supervision" for "Segregation" throughout.

10A:5-3.13 Recreation

(a) Where physical facilities permit, each inmate in an Administrative Close Supervision Unit shall be allowed recreation and exercise outside the cell at least five hours per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

(b) Inmates in an Administrative Close Supervision Unit shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five hours of recreation time per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b), deleted "who shall be retained" following "Inmates", inserted "an" preceding "Administrative" and inserted "Unit" and "hours of recreation time".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted "Close Supervision" for "Segregation" throughout.

10A:5-3.14 Education

(a) Educational programs shall be comparable to those available to inmates in general population to the extent possible in accordance with security considerations, resources, budgetary constraints, and Administrative Close Supervision Unit internal management procedures.

(b) A member of the educational staff shall be assigned to develop individualized educational programs for approved inmates who are assigned to administrative segregation.

(c) Educational programs and services shall be provided for all inmates up to age 20 and up to age 22 for inmates with educational disabilities. An inmate may choose not to participate in available educational programs after the inmate has reached the age of 16. A decision not to participate in an educational program(s) shall be in writing and signed by the inmate. Until the inmate reaches the age of 18, a parent or guardian must also sign a decision not to participate in an educational program(s). A decision to participate in an educational program(s) may be made at any time thereafter, until the inmate reaches age 22.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (a), inserted a comma following "constraints", and substituted "Close Supervision" for "Segregation".

10A:5-3.15 Visits by professional and correctional supervisory staff

(a) A member of the correctional facility social work staff shall make visits to the Administrative Close Supervision Unit five days per week and shall be available as soon as administratively possible to interview individual inmates as requested. When appropriate, referrals to other departments or staff members shall be made.

(b) The correctional facility chaplain shall also visit as soon as administratively possible the Administrative Close Supervision Unit as requested by individual inmates to provide religious counseling or other pastoral services.

(c) The supervisor in charge of the Administrative Close Supervision Unit shall make daily visits to the Unit and shall be available as soon as administratively possible to interview individual inmates as requested.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted "Close Supervision" for "Segregation" throughout.

10A:5-3.16 Work opportunities

Work opportunities may be made available to inmates assigned to an Administrative Close Supervision Unit to the extent possible in accordance with security considerations, limited resources, availability of physical facilities, and budgetary constraints.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Substituted "accordance with" for "light of".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Substituted "Close Supervision" for "Segregation", deleted "and" preceding "availability", and inserted a comma following "facilities".

10A:5-3.17 Psychological/psychiatric evaluations

(a) Every inmate in the Administrative Close Supervision Unit for six months shall receive a psychiatric or psychological evaluation and shall receive a psychiatric or psychological evaluation every two months thereafter. The evaluation shall consider, but not be limited to, the following factors:

1. The inmate's adjustment to his or her surroundings;
2. The likelihood of the inmate conforming his or her behavior to correctional facility rules and regulations; and
3. The likelihood of the inmate posing a threat to the safe, orderly and secure operations of the correctional facility.

(b) The results of the evaluation shall be available to the S.A.S.R.C. for its periodic review of the inmate. This evaluation shall not preclude the S.A.S.R.C. from directing that additional evaluations be made where they deem it necessary.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In the introductory paragraph of (a), substituted "Close Supervision" for "Segregation".

10A:5-3.18 Withdrawal of personal items or activities

(a) Whenever, in the judgment of the custody staff member in charge of an Administrative Close Supervision Unit, there is imminent danger that an inmate will destroy clothing or any items usually permitted the inmate in the cell,

or do injury to self, to another person, or to property with such items, the custody staff member may deprive the inmate of such items, if practicable. Every effort shall be made to supply a substitute for the item or to permit the inmate to use the item under the supervision of the custody staff member.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Administrator or designee and the supervisor of the Administrative Close Supervision Unit, which shall identify the inmate and the item or activity. In addition, the S.A.S.R.C. shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the S.A.S.R.C.

(c) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In (a) and (b), substituted "Close Supervision" for "Segregation", and in (b), inserted a comma following "Unit".

10A:5-3.19 (Reserved)

Repealed by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

Section was "Selection of staff".

10A:5-3.20 Records

(a) The following information on inmates confined in an Administrative Close Supervision Unit shall be available in the unit for the use of appropriate staff:

1. The inmate's name and number;
2. Previous housing locations;
3. Unit cell or room assignments;
4. The date admitted;
5. The disciplinary charge leading to administrative segregation;
6. Special medical or psychiatric problems on an as needed basis; and
7. The date beyond which the inmate may not be retained in the Administrative Close Supervision Unit on the instant offense.

(b) All unusual behavior shall be noted in the Unit log book together with the time and date of the incident. Unusual incidents shall also be reported pursuant to N.J.A.C. 10A:21, Reports.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In the introductory paragraph of (a), substituted "appropriate" for "the custodial".

Amended by R.2014 d.027, effective February 3, 2014.

See: 45 N.J.R. 13(a), 46 N.J.R. 297(a).

In the introductory paragraph of (a) and in (a)7, substituted "Close Supervision" for "Segregation"; and in the introductory paragraph of (a), substituted "unit" for the second occurrence of "Unit".

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. PROTECTIVE CUSTODY

Subchapter Historical Note

Petition for Rulemaking. See: 41 N.J.R. 3115(a).

10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit

(a) An inmate may be placed in Protective Custody by any of the following means:

1. On the recommendation of the Special Investigations Division (S.I.D.);
2. On the recommendation of a sentencing court or prosecutor, subject to approval of the Administrator. The recommendation must be accompanied by a statement of justifiable reasons to support such placement;
3. On the recommendation of a correctional facility non-custody staff person or a custody staff member;
4. On the order of the Administrator; Assistant Commissioner, Division of Operations; Chief of Staff; Deputy Commissioner; or Commissioner;
5. Voluntarily, on the part of an inmate via the inmate's request; or
6. Involuntarily, on the part of the inmate in accordance with the provisions of this subchapter.

(b) If an inmate voluntarily requests placement in Protective Custody, he or she shall complete, sign and submit to the appropriate Custody Supervisor Form 146-I Voluntary—Protective Custody Consent. The reasons for requesting Protective Custody must be indicated on the form. If the inmate's reasons cannot be verified, are deemed to be frivolous by the Administrator or designee or if the conditions forming the basis for the voluntary placement have abated or no longer exist, placement in Protective Custody may be denied or the inmate may be released from Protective Custody.

(c) Prehearing Protective Custody shall be used when necessary in order to conduct an investigation. In all cases of inmate voluntary and involuntary placement in Prehearing Protective Custody, the Administrator or designee shall gather facts, information and available documentation to

support or reject the placement and shall order such additional investigation as is deemed necessary for a clear understanding of the case. Prehearing Protective Custody may consist of confinement to the inmate's cell or placement into a secure Close Custody Unit.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)3, substituted "correctional facility" for "prison"; and in (a)4, inserted "Deputy Commissioner;"

Petition for Rulemaking.

See: 41 N.J.R. 3115(b).

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Section was "Admission to Protective Custody". In (a)3, deleted "of the rank of Sergeant or above. Emergency placement shall be reviewed and approved within 24 hours by the Shift Supervisor" following "member"; in (a)4, deleted "or" from the end; in (a)5, inserted "the part of an inmate via" and substituted "; or" for a period at the end; added (a)6; and rewrote (b) and (c).

10A:5-5.2 Hearing procedure for involuntary placement in a Protective Custody Unit

(a) An inmate under consideration for placement in Protective Custody shall be given written notice on Form 146-II Notice of Protective Custody Hearing - Involuntary, as soon as practicable.

(b) An inmate placed in Prehearing Protective Custody or a Protective Custody Unit on an emergency basis shall be given written notice on Form 146-II no later than three business days after such emergency placement.

(c) A copy of Form 146-II shall be given to the inmate at least 24 hours prior to the in-person hearing. The notice shall be signed by the staff person delivering it and the date and time of delivery shall be noted.

(d) Form 146-II shall include the following:

1. A statement of reasons used by the administration to initiate the Protective Custody hearing procedure;
2. The date of the Protective Custody hearing; and
3. Notification that the inmate may present any relevant evidence supporting or contesting placement in Protective Custody.

(e) Evidence may consist of:

1. Witnesses' written statements;
2. Documents related to the nature of threat of harm involved; or
3. Other facts relevant to the need or lack of need for placement in Protective Custody.

(f) At the time of receipt of the notice, the inmate shall be given the opportunity to present the basis for any opposition to involuntary placement in Protective Custody. The inmate shall not, however, be required to make any statement at this time. The information contained in the notice, together with any statement or evidence provided by the inmate at the time of receipt of the notice, shall be reviewed by the Adminis-

trator or designee immediately to determine whether, pending the completion of a thorough investigation, there is a reasonable basis to conclude that the inmate is in need of Protective Custody.

(g) Illiterate inmates or inmates otherwise unable to adequately collect and present the facts shall receive the assistance of a counsel substitute assigned by the Disciplinary Hearing Officer/Adjustment Committee or Administrator or designee. An interpreter shall be utilized, if needed, at the discretion of the Disciplinary Hearing Officer/Adjustment Committee.

(h) The Disciplinary Hearing Officer/Adjustment Committee shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence which is not necessary for an adequate understanding of the case. The Disciplinary Hearing Officer/Adjustment Committee may order further investigation and reports where deemed necessary and shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness and to ensure that the hearing does not develop into an adversarial proceeding.

(i) Inmates placed involuntarily in Prehearing Protective Custody or in a Protective Custody Unit shall receive a hearing within 20 business days after receipt of the notice, unless there are exceptional circumstances, unavoidable delays or reasonable postponements.

(j) The inmate shall be permitted to be present at the hearing except during the necessary deliberations of the Disciplinary Hearing Officer or Adjustment Committee and except in instances where the security or order of the facility would be jeopardized. Reasons for excluding an inmate from the hearing shall be documented in the record. At the hearing, the inmate shall be informed of all information related to the inmate's case, with the exception of information designated confidential. In the event the inmate is not permitted to be present at the hearing, the inmate shall be notified of information related to the case in accordance with (l) below.

(k) When reviewing confidential informant information, the Disciplinary Hearing Officer/Adjustment Committee shall inquire into the reliability of the informant and the information, and shall utilize such information only after satisfied that it is reasonably reliable. Whenever informant information is used, the inmate shall be informed of the general character of the information, if practicable. The details of the informant information shall be withheld on grounds of confidentiality.

1. In any case in which the Disciplinary Hearing Officer or Adjustment Committee's decision is based on evidence that includes confidential information, adjudication shall contain:

i. A concise summary of the facts on which the Disciplinary Hearing Officer or Adjustment Committee concluded that the informant was credible or his or her information reliable; and

ii. The informant's statement (either in writing or as reported) in language that is factual rather than a conclusion, and based on the informant's knowledge of the matters contained in such statement.

2. The Disciplinary Hearing Officer or Adjustment Committee is not permitted to disclose the identity of the informant.

(l) Within 10 business days of the hearing, the Disciplinary Hearing Officer/Adjustment Committee shall provide a written notice of decision and a summary of the evidence relied upon.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Section was "Hearing procedure for involuntary placement to Protective Custody". In (a), substituted "Hearing - Involuntary," for "Hearing Involuntary"; in (d)1, substituted "used" for "utilized"; in (e)2, substituted "related to" for "bearing on"; in (g), inserted "or designee"; in (i), inserted a comma following "notice" and "delays"; and in (j), substituted "related to" for "bearing on".

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Section was "Hearing procedure for involuntary placement in Protective Custody". In (b), substituted "placed in Prehearing" for "in emergency", and inserted "or a Protective Custody Unit on an emergency basis" and "such"; in (c), substituted "A copy of Form 146-II" for "The written notice"; in the introductory paragraph of (d), substituted "Form 146-II" for "The notice"; in (i), substituted "involuntary in Prehearing" for "in emergency", deleted "under consideration for placement" following "Protective Custody or", inserted "a" preceding and "Unit" following the second occurrence of "Protective Custody" and deleted a comma following "delays"; and in (j), inserted the first, second and fourth sentences.

10A:5-5.3 Appeal procedures for an involuntary Protective Custody placement

(a) The inmate shall be advised of the opportunity to appeal to the Administrator or designee at the time that the inmate is provided with the Protective Custody hearing decision (Form 146—III Protective Custody Hearing Adjudication).

(b) The inmate shall have five business days from the date he or she receives the Protective Custody decision to submit a letter of appeal.

(c) All appeals shall be reviewed by the Administrator or designee and the following factors shall be considered:

1. Whether there was compliance with this subchapter;
2. Whether the decision was based on reliable information; and
3. Whether the decision to place the inmate in Protective Custody was justifiable considering the inmate's safety and the continued secure, orderly operation of the correctional facility.

(d) Within 10 business days of receipt of the appeal, the Administrator or designee may:

1. Approve the Disciplinary Hearing Officer/Adjustment Committee's decision;

2. Modify the Disciplinary Hearing Officer/Adjustment Committee's decision; or

3. Order further hearings.

(e) In all cases, the inmate shall be notified in writing of the decision of the Administrator or designee.

Petition and Action on Petition for Rulemaking.

See: 39 N.J.R. 5377(a).

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Section was "Appeal procedures for Protective Custody placement". In the introductory paragraph of (c) and (d), inserted "or designee"; and in (e), substituted "decision of the Administrator or designee" for "Administrator's decision".

10A:5-5.4 Review of all inmates in Protective Custody Units

(a) Each inmate in Protective Custody voluntarily shall be provided an in-person review annually, or more often if necessary, by the Institutional Classification Committee (I.C.C.).

(b) An inmate who is placed in Protective Custody involuntarily shall, in every case, have an in-person hearing once per year, or more often if necessary, in accordance with procedures specified in N.J.A.C. 10A:5-5.2 and 5.3.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a), substituted "necessary" for "feasible".

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Section was "Review of inmates in Protective Custody Units". In (a), substituted "voluntarily shall be provided an in-person review annually" for "whether voluntary or involuntary, shall be reviewed every three months"; and in (b), inserted "or more often if necessary".

10A:5-5.5 Release of inmates in Protective Custody Units

(a) An inmate who has voluntarily signed himself or herself into Protective Custody who wishes to be released from Protective Custody may complete Form CUS-132 Request For Release From Protective Custody and submit this form to the appropriate Custody Supervisor. In order to approve such a requested release, the Institutional Classification Committee (I.C.C.), the Administrator or designee and the Division of Operations Director or designee must be satisfied that there is no known danger to the inmate's well-being and no known threat to the safe, secure or orderly operation of the correctional facility. Should the request for release be denied, the inmate may request in writing to be deemed an involuntary placement into Protective Custody and the applicable provisions of this subchapter shall apply.

(b) An inmate who has been placed in Protective Custody involuntarily may be released by the Administrator or designee, upon recommendation by the I.C.C. when they are satisfied that the conditions forming the basis for the inmate's placement in Protective Custody have abated or no longer exist and there is no known threat to the safe, secure or orderly operation of the correctional facility.

(c) Inmates released from involuntary Protective Custody shall, when appropriate, be referred to the CRAF Intake Unit for assignment to a suitable correctional facility.

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Rewrote (a) and (b).

10A:5-5.6 Ventilation, heating, lighting, sanitation, observation

(a) Ventilation and reasonable temperature shall be maintained on a 24-hour basis. Light of sufficient intensity (100 watts if requested and if compatible with existing electrical load capacity) shall be maintained to allow visual observations of inmates at all times. Partial curtains may be permitted over the cell door, at the discretion of the Administrator.

(b) When admitted, inmates shall not be placed in cells that are unsanitary or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to ensure the cells are kept secure and sanitary.

(c) Toilets that are flush controlled from outside the cells shall be flushed as often as is necessary to maintain good sanitary standards.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b), substituted "are unsanitary" for "lack cleanliness" and deleted "clean" following "secure".

10A:5-5.7 Food

(a) Protective Custody inmates shall be served the regular correctional facility meals from the "Menu of the Day" unless a special diet is prescribed by a physician or a religious vegetarian diet has been approved by the correctional facility chaplain.

(b) Disposable utensils shall be used when necessary.

10A:5-5.8 Grooming, showering and shaving

(a) Barbering and hair care services shall be provided as needed.

(b) Each inmate in Protective Custody shall be given the opportunity to shave and shower not less than three times per week, unless permitting these activities would present an undue security hazard.

10A:5-5.9 Medical services

(a) A member of the medical staff, which can be a registered nurse, nurse practitioner, doctor or other authorized health care personnel, shall be available in the Unit on a daily basis to assess medical needs. Any inmate wishing to see a doctor shall notify the medical staff member or the housing custody staff member of his or her sick call request.

(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 medical person designated by the physician within 24 hours.

10A:5-5.10 Personal items

(a) All inmates shall be admitted to Protective Custody dressed in clothing issued by the correctional facility after a thorough search for contraband.

(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 cell;
2. Bedding and mattress;
3. Personal hygiene supplies;
4. Eating utensils;
5. Eyeglasses;
6. A wristwatch;
7. Religious indicia;
8. Legal materials;
9. Postage stamps; and
10. Reading and writing materials.

(c) The possession and use of radios, televisions, typewriters and other appliances in Protective Custody shall be subject to the same guidelines as those developed by the Administrator or designee for the general population.

(d) Written internal management procedures shall be in effect permitting inmates access to books and periodicals from the correctional facility's library and Inmate Law Library.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (c), inserted "or designee".

10A:5-5.11 Correctional facility clothing, bedding and linen

The issue and exchange of correctional facility clothing, bedding, linen, and the laundry service shall be handled in accordance with Unit internal management procedures or on the same basis as is available to the general inmate population.

10A:5-5.12 Inmate legal services

Inmates in Protective Custody shall be afforded legal access to courts pursuant to N.J.A.C. 10A:6, Inmate Access to Courts.

10A:5-5.13 Correspondence, visits and telephone calls

(a) Inmates in Protective Custody shall have the same correspondence opportunities that are available to inmates in the general population.

(b) Each correctional facility that has a Protective Custody Unit shall provide each inmate in the Unit with the opportunity to receive a minimum of one window visit per week, unless precluded by security conditions or other extraordinary circumstances.

(c) Each correctional facility that has a Protective Custody Unit shall provide each inmate in the Unit with the opportunity to make a minimum of one collect telephone call per week, excluding legal telephone calls (see N.J.A.C. 10A:6-2.8).

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

In (c), substituted "that" for "which" and "Unit with" for "unit".

10A:5-5.14 Recreation

(a) Where physical facilities permit, each inmate in Protective Custody shall be allowed recreation and exercise outside the cell at least five hours per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

(b) Inmates in Protective Custody shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five hours of recreation time per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b), inserted "of recreation time" and inserted a comma following "week".

10A:5-5.15 Education

(a) A member of the educational staff shall be assigned to develop individualized educational programs for approved inmates who are assigned to Protective Custody.

(b) Educational programs and services shall be provided for all inmates up to age 20 and up to age 22 for inmates with educational disabilities. An inmate may choose not to participate in available educational programs after the inmate has reached the age of 16. A decision not to participate in an educational program(s) shall be in writing and signed by the inmate. Until the inmate reaches the age of 18, a parent or guardian must also sign a decision not to participate in an educational program(s). A decision to participate in an educational program(s) may be made at anytime thereafter, until the inmate reaches age 22.

(c) The educational opportunities available to inmates in Protective Custody shall be comparable to those available to inmates in general population to the extent possible in accordance with security considerations, resources, budgetary constraints and Protective Custody Unit internal management procedures.

10A:5-5.16 Visits by professional and correctional facility supervisory staff

(a) A member of the correctional facility social services staff shall make visits to the Protective Custody Unit five days per week and shall be available to interview individual inmates as soon as administratively possible when requested by the inmate. When appropriate, referrals to other departments or staff members shall be made.

(b) The correctional facility chaplain shall visit the Protective Custody Unit as soon as administratively possible when requested by individual inmates to provide religious counseling or other pastoral services.

(c) The Unit supervisor or designee in charge of the Protective Custody Unit shall make daily visits to the Unit and shall be available to interview individual inmates as soon as administratively possible when requested.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Section was "Visits by professional and correctional supervisory staff". In (a), substituted "services" for "work" and inserted "by the inmate".

10A:5-5.17 Work opportunities

Work opportunities shall be made available to inmates assigned to a Protective Custody Unit to the extent possible in accordance with security considerations, limited resources, and availability of physical facilities and budgetary constraints.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Substituted "accordance with" for "light of".

10A:5-5.18 Psychological examination

Every inmate assigned to a Protective Custody Unit shall have a psychological examination every six months, or whenever it appears that he or she is suffering from an emotional or psychological disorder.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Inserted a comma following "months".

10A:5-5.19 Withdrawal of personal items or activities

(a) Whenever, in the judgment of the custody supervisor of the Protective Custody Unit, there is imminent danger that an inmate will destroy property, clothing or any item usually permitted in the cell, or injure self, or another person, a custody staff member of the rank of Sergeant or above may

deprive the inmate of such items, if practicable. In such cases, however, every effort shall be made to supply a substitute for the item or to permit the inmate to use the item under the supervision of the custody staff member.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Administrator or designee and the supervisor of the Protective Custody Unit shall identify the inmate and the item.

(c) The Institutional Classification Committee (I.C.C.) shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the I.C.C.

(d) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a), inserted "property," deleted "the inmate" following "permitted" and "or to property with such items," following "another person," and substituted "injure self, or" for "do injury to self, to" and "cases" for "case".

10A:5-5.20 (Reserved)

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Inserted a comma following "custody" and inserted "/or".

Repealed by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Section was "Selection of staff".

10A:5-5.21 Records

(a) The following information on inmates confined to Protective Custody shall be available in the Unit for the use of appropriate staff members:

1. The inmate's name and number;
2. Religion;
3. The previous housing location;
4. The unit cell or room assignment;
5. The date admitted;
6. Special medical or psychiatric problems on an as needed basis; and
7. The date on which yearly review hearing is required.

(b) All unusual behavior shall be noted in the Unit log book together with the time and date of the incident. Unusual incidents shall also be reported pursuant to N.J.A.C. 10A:21, Reports.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)6, inserted "on an as needed basis".

10A:5-5.22 Disciplinary action within Protective Custody Units

(a) The rules set forth in N.J.A.C. 10A:4, Inmate Discipline, shall be in full force and effect in the Protective Custody Units.

(b) An inmate assigned to Prehearing Protective Custody or a Protective Custody Unit who requires an administrative transfer to another Close Custody Unit or who is found guilty of a prohibited act that results in a sanction that includes assignment to another Close Custody Unit shall be subject to the rules of that Unit.

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Inserted designation (a); and added (b).

10A:5-5.23 Transfers; record maintenance

All transfers into or out of a Protective Custody Unit shall be entered on the inmate's classification progress notes.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Substituted "notes" for "record".

10A:5-5.24 Correctional facility procedures

(a) Each correctional facility that has a Protective Custody Unit shall be responsible for developing written unit internal management procedures and/or post orders consistent with this subchapter.

(b) These written unit internal management procedures and/or post orders shall be forwarded to the Commissioner or designee, New Jersey Department of Corrections, for review and approval on or before September 15 of each year.

SUBCHAPTER 6. (RESERVED)**SUBCHAPTER 7. TEMPORARY CLOSE CUSTODY****10A:5-7.1 Placement in temporary close custody**

(a) An inmate may be placed in temporary close custody for a period not to exceed 72 hours unless exceptional circumstances, such as, but not limited to, other information received or other substantial evidence found warrant extension of this time period.

(b) Criteria for placement of an inmate in temporary close custody status are:

1. Reasonable suspicion exists to indicate that the inmate is engaged in, or is planning a serious violation (asterisked offenses under N.J.A.C. 10A:4-4.1(a)) of correctional

facility rules, on which disciplinary action is considered premature;

2. Reasonable suspicion exists to indicate that the inmate is in possession of, or plans to obtain, contraband which may pose a danger to the inmate or others;

3. The inmate exhibits assaultive, self-mutilating and/or threatening behavior related to a medical or psychiatric condition, in the written opinion of a psychiatrist, psychologist or medical doctor; and/or

4. Any other reason, which, in the opinion of the Administrator, or designee, requires temporary close custody confinement to protect the inmate, staff, general public, and/or the security and control of the correctional facility.

(c) When placement of an inmate in temporary close custody is ordered by the Administrator's designee, the designee shall, as soon as administratively possible within 72 hours, inform the Administrator and shall provide a written report to the Administrator setting forth the reason for every such placement.

(d) On or before the expiration of the 72-hour period, unless there are emergent reasons for extension, the inmate shall be released from temporary close custody to:

1. The general population;
2. Prehearing detention;
3. Detention in connection with a disciplinary action pursuant to N.J.A.C. 10A:4;
4. A medical or psychiatric housing unit for continued observation, treatment, or commitment procedures (N.J.A.C. 10A:16-13); or
5. Another close custody unit in accordance with procedures set forth in this chapter, such as, Protective Custody or the Management Control Unit.

(e) Release from temporary close custody may be ordered only by the Administrator or designee.

(f) In consideration of the reason for an inmate's placement in temporary close custody, the Director of Custody Operations or designee shall determine the personal property and other services, such as, but not limited to, visits and telephone calls, which the inmate may be afforded while in temporary close custody.

(g) The Administrator shall forward a monthly written report of all placements and releases from temporary close custody to the Assistant Commissioner, Division of Operations for review.

Petition for Rulemaking.

See: 40 N.J.R. 1711(a).

Petition for Rulemaking.

See: 41 N.J.R. 2733(c).