

**CHAPTER 4**

**INMATE DISCIPLINE**

**Authority**

N.J.S.A. 30:1B-6 and 30:1B-10.

**Source and Effective Date**

R.2001 d.221, effective July 2, 2001.  
See: 33 N.J.R. 1289(a), 33 N.J.R. 2291(a).

**Chapter Expiration Date**

Chapter 4, Inmate Discipline, expires on July 2, 2006.

**Chapter Historical Note**

Chapter 4, Inmate Discipline was adopted as R.1986 d.283, effective July 21, 1986. See: 18 N.J.R. 27(a), 18 N.J.R. 1465(a).

Subchapter 13, Resident Discipline Program for the Training School for Boys at Skillman, was repealed by R.1988 d.239, effective June 6, 1988. See: 20 N.J.R. 496(a), 20 N.J.R. 1224(a).

Subchapter 12, Appeal to Office of Administrative Law (OAL), was repealed by R.1988 d.543, effective November 21, 1988. See: 20 N.J.R. 496(b), 20 N.J.R. 2928(a).

Pursuant to N.J.S.A. 30:7-1, the following correctional facilities in Chapter 4 were redesignated: Training School for Juveniles at Jamesburg to the New Jersey Training School for Boys; Girls Unit and The Boys Unit of the Training School for Boys at Skillman to the Lloyd McCorkle Training School for Boys and Girls; Clinton Correctional Institution to the Edna Mahan Facility for Women; Trenton State Prison to the New Jersey State Prison. See: 21 N.J.R. 558(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Inmate Discipline, was readopted as R.1991 d.276, effective May 7, 1991. See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Pursuant to Executive Order No. 66(1978), Chapter 4, Inmate Discipline, was readopted as R.1996 d.237, effective April 26, 1996. See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b). Pursuant to Executive Order No. 66(1978), Chapter 4, Inmate Discipline, expired on April 26, 2001.

Chapter 4, Inmate Discipline, was adopted as new rules by R.2001 d.221, effective July 2, 2001. See: 33 N.J.R. 1289(a), 33 N.J.R. 2291(a).

Subchapter 12, Zero Tolerance Policies of the Department of Corrections, was adopted as emergency new rules by R.2005 d.435, effective November 15, 2005, to expire on January 14, 2006. See: 37 N.J.R. 4575(a).

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#### SUBCHAPTER 1. INTRODUCTION

##### 10A:4-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish policies to assure that inmate discipline and control are consistent with the correctional objectives of the Department of Corrections and the correctional facility;
2. Establish a comprehensive code of offenses and set of permissible punishments in order that prescribed behavior may be known by both inmates and staff;
3. Establish administrative due process safeguards in the disciplinary process as required by the United States Supreme Court in *Wolff v. McDonnell*, 418 U.S. 539 (1974) and the New Jersey Supreme Court in *Avant v. Clifford*, 67 N.J. 496 (1975);
4. Enforce rules and impose appropriate sanctions for infractions;
5. Stimulate application of disciplinary procedures which encourage future voluntary acceptance of certain

behavior limitations that are necessarily being imposed upon the inmate;

6. Build and maintain morale among inmates and between staff and inmates by providing impartial and fair procedures throughout the disciplinary process.

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

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

Corrected reference to Chapter in (a).

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

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

#### Case Notes

Correctional institution regulations held constitutional (citing former N.J.A.C. 10:35). *Avant v. Clifford*, 67 N.J. 496, 341 A.2d 629 (1975).

##### 10A:4-1.2 Scope

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

(b) This chapter shall apply to State sentenced inmates incarcerated at adult county correctional facilities.

Amended by R.1987 d. 506, effective December 21, 1987.

See: 19 N.J.R. 1531(a), 19 N.J.R. 2403(a).

Added "the Girls Unit ... Boys at Skillman".

Amended by R.1988 d. 239, effective June 6, 1988.

See: 20 N.J.R. 496(a), 20 N.J.R. 1224(a).

Added Boys Unit to the Girls Unit.

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1994 d.182, effective April 4, 1994.

See: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).

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

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

##### 10A:4-1.3 Definitions

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

"Administrative Close Supervision Unit" means a long term close custody unit to which an inmate may be assigned because of one or more disciplinary infractions or other administrative considerations.

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

"Administrative Segregation" shall mean removal of an inmate from the general population to a long term close custody unit because of one or more disciplinary infractions or other administrative considerations.

"Asterisk offense" shall mean a prohibited act preceded by a number and an asterisk.

"Bodily fluid" shall mean saliva, blood, urine, feces, seminal fluid or any other bodily fluid (see N.J.S.A. 2C:12-12).

"Bodily injury" shall mean physical pain, illness or any impairment of physical condition (see N.J.S.A. 2C:11-1).

- .257 violating a condition of any community release program
- \*.258 refusing to submit to testing for prohibited substances
- \*.259 failure to comply with an order to submit a specimen for prohibited substance testing (see N.J.A.C. 10A:3-5)
- \*.260 refusing to submit to mandatory medical or other testing such as, but not limited to, mandatory testing required by law or court order
- \*.261 tampering with a test specimen
- .301 unexcused absence from work or any assignment; being late for work
- .302 malingering, feigning an illness
- .303 failing to perform work as instructed by a staff member
- .304 using abusive or obscene language to a staff member
- .305 lying, providing a false statement to a staff member
- \*.306 conduct which disrupts or interferes with the security or orderly running of the correctional facility
- .351 counterfeiting, forging or unauthorized reproduction or use of any document not enumerated in prohibited act \*.352
- \*.352 counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document
- \*.360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family
- .401 participating in an unauthorized meeting or gathering
- .402 being in an unauthorized area
- .451 failure to follow safety or sanitation regulations
- .452 using any equipment or machinery which is not specifically authorized
- .453 using any equipment or machinery contrary to instructions or posted safety standards
- .501 failing to stand count
- .502 interfering with the taking of count
- \*.551 making intoxicants, alcoholic beverages or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia
- \*.552 being intoxicated
- .552A being intoxicated while the inmate is assigned to a Residential Community Program
- .553 smoking where prohibited
- .554 possession of tobacco products or matches where not permitted
- .601 gambling
- .602 preparing or conducting a gambling pool
- .603 possession of gambling paraphernalia
- .651 being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards
- .652 tattooing or self mutilation
- .701 unauthorized use of mail or telephone
- .702 unauthorized contacts with the public
- .703 correspondence or conduct with a visitor in violation of regulations
- \*.704 perpetrating frauds, deceptions, confidence games, riots or escape plots
- .705 commencing or operating a business or group for profit or commencing or operating a nonprofit enterprise without the approval of the Superintendent
- .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator.
- .707 failure to keep a scheduled appointment with medical, dental or other professional staff
- \*.708 refusal to submit to a search
- .709 failure to comply with a written rule or regulation of the correctional facility
- \*.751 giving or offering any official or staff member a bribe or anything of value
- .752 giving money or anything of value to, or accepting money or anything of value from, another inmate
- .753 purchasing anything on credit
- .754 giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose
- .802 attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself
- \*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself

Notice of Correction: Asterisk was omitted for \*.306.  
See: 18 N.J.R. 2138(d).

Amended by R.1987 d.154, effective April 6, 1987.

See: 19 N.J.R. 178(a), 19 N.J.R. 534(a).

Added \*.008 abuse/cruelty to animals.

Notice of Correction: .352 was omitted from the end of .351.

See: 19 N.J.R. 1658(c).

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

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

Added .150 and amended \*.151.

Administrative Corrections in (a): In .150 corrected suppressant.

See: 24 N.J.R. 2731(a).

Amended by R.1993 d.488, effective October 4, 1993.

See: 25 N.J.R. 3416(a), 25 N.J.R. 4599(a).

Administrative Correction.

See: 26 N.J.R. 1228(a).

Amended by R.1994 d.254, effective May 16, 1994.

See: 26 N.J.R. 1286(a), 26 N.J.R. 2129(a).

Amended by R.1994 d.264, effective June 6, 1994.

See: 26 N.J.R. 1287(a), 26 N.J.R. 2285(b).

Amended by R.1995 d.237, effective May 1, 1995.

See: 27 N.J.R. 436(a), 27 N.J.R. 1801(c).  
Amended by R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).

See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).

In (a) added refusing a breathalyzer test.

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

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

In (a) added exception for on-the-spot corrections, in .254 added refusal of housing unit assignment, and deleted provision for transfer to the Vroom Readjustment Unit.

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

See: 29 N.J.R. 813(b), 29 N.J.R. 948(a).

Amended by R.1997 d.225, effective June 2, 1997.

See: 29 N.J.R. 834(a), 29 N.J.R. 2562(b).

In (a), inserted “\*.260 refusing to submit to mandatory medical testing”.

Amended by R.1997 d.276, effective July 7, 1997.

See: 29 N.J.R. 1663(a), 29 N.J.R. 2836(a).

In Schedule of Prohibited Acts, added .261 (tampering with a urine specimen).

Amended by R.1997 d.325, effective August 4, 1997.

See: 29 N.J.R. 2542(a), 29 N.J.R. 3452(a).

In (a), upgraded .150 (tampering with fire alarms, fire equipment or fire suppressant equipment) and .154 (tampering with or blocking any locking device) into asterisk offenses.

Amended by R.1998 d.366, effective July 20, 1998.

See: 30 N.J.R. 1719(a), 30 N.J.R. 2619(a).

Inserted new prohibited acts .010 and .011.

Amended by R.1999 d.333, effective October 4, 1999.

See: 31 N.J.R. 1847(a), 31 N.J.R. 2891(a).

In (a), in prohibited act .351, inserted an asterisk preceding “.352”, and inserted prohibited act .360.

Petition for Rulemaking.

See: 32 N.J.R. 3668(a).

Amended by R.2004 d.3, effective January 5, 2004.

See: 35 N.J.R. 4168(a), 36 N.J.R. 195(a).

Amended prohibited act 260 to include references to mandatory testing.

Amended by R.2004 d.294, effective August 2, 2004.

See: 36 N.J.R. 1657(a), 36 N.J.R. 3552(a).

Inserted “.204A” and “.552A”.

Emergency amendment, R.2005 d.435, effective November 15, 2005, (to expire January 14, 2006).

See: 37 N.J.R. 4575(a).

In (a), prohibited act \*.009, substituted “,” for “or” in two places and added “distribution, sale, or intent to distribute or sell, an” “communication device,” “or peripheral that is capable of transmitting, receiving or storing data and/or electronically transmitting a message, image or data that is” and “(see “electronic communication device” definition at N.J.A.C. 10A:1-2.2).”

#### Cross References

Possession of inter-office envelopes, see N.J.A.C. 10A:18-2.26, 10A:18-3.13.

#### Case Notes

Punishment of Christian Scientist inmate who refused to submit to tuberculosis test furthered compelling state interest in preventing spread of tuberculosis in prison, as would justify such test’s substantial burden on inmate’s right of free exercise of religion under Religious Freedom Restoration Act. *Karolis v. New Jersey Dept. of Corrections*, D.N.J. 1996, 935 F.Supp. 523.

Contact-visit loss component of zero tolerance drug-alcohol policy was enforceable against inmate who violated disciplinary rule prohibiting possession of drugs after announcement of policy but before formal amendment of regulation. *Walker v. Department of Corrections*, 324 N.J.Super. 109, 734 A.2d 795 (N.J.Super.A.D. 1999).

Standard embodied in inmate disciplinary rule prohibiting using abusive or obscene language to staff member was not valid basis for

imposing disciplinary punishment for inmate’s vulgar and offensive statement in context of psychotherapy that was not threatening or exhortative of disobedience or violence. *Pryor v. New Jersey Dept. of Corrections*, 288 N.J.Super. 355, 672 A.2d 717 (A.D.1996).

Amendment to administrative code that added refusal to register as sex offender to list of prohibited acts was not unconstitutional. *A.F. v. Fauver*, 287 N.J.Super. 354, 671 A.2d 155 (A.D.1996).

Determination whether remark constitutes threat; objective analysis whether remark conveys basis for fear. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Finding that inmate threatened guard with bodily harm was supported by evidence. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Prison officials’ decision to place inmate in nonpunitive management control unit was supported by record. *Taylor v. Beyer*, 265 N.J.Super. 345, 627 A.2d 166 (A.D.1993).

State prison sanctions for infractions only applicable if county inmate notified of infractions. *Bryan v. Department of Corrections*, 258 N.J.Super. 546, 610 A.2d 889 (A.D.1992).

Procedural safeguards not properly applied in prison disciplinary proceeding involving confidential informant. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

Information provided by confidential informant for use in prison disciplinary hearing must be part of confidential record. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

New prison disciplinary hearing required when procedural safeguards were absent in first hearing or in presence of newly discovered evidence. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

#### 10A:4-4.2 Reports to the prosecutor on prohibited acts

All prohibited acts which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) shall be referred to the prosecutor of the county in which the correctional facility is located. (See N.J.A.C. 10A:21 Reporting Violations of the Criminal Statutes.)

#### SUBCHAPTER 5. SCHEDULE OF SANCTIONS FOR PROHIBITED ACTS

##### 10A:4-5.1 Schedule of sanctions for prohibited acts committed at the Prison Complex

(a) A finding of guilt for any offense preceded by an asterisk (\*) shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Administrative Segregation for a specified time not to exceed one year, subject to confirmation by the Institutional Classification Committee;

4. Loss of commutation time up to 365 days, subject to confirmation by the Administrator;
5. Loss of furlough privileges for up to two months;
6. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days;
7. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);
8. Confiscation;
9. Up to 14 hours extra duty, to be performed within a maximum of two weeks;
10. Up to two weeks confinement to room or housing area; and/or
11. Referral to the Mental Health Unit for appropriate care/treatment.

(b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Up to 60 days loss of commutation time, subject to confirmation by the Administrator;
4. Administrative Segregation for a specified time not to exceed 90 days subject to confirmation by the Institutional Classification Committee;
5. Loss of furlough privileges for up to two months;
6. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days;
7. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);
8. Confiscation;
9. Up to 14 hours extra duty, to be performed within a maximum of two weeks;
10. Up to two weeks confinement to room or housing area; and/or
11. Referral to the Mental Health Unit for appropriate care/ treatment.

(c) Pursuant to the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2, a finding of guilt to any of the following prohibited acts shall result in termination of contact visit privileges and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated:

1. \*.203 possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;
2. \*.204 use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;
3. \*.215 possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia;
4. \*.216 distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia;
5. \*.258 refusing to submit to testing for prohibited substances;
6. \*.259 failure to comply with an order to submit a specimen for prohibited substance testing (see N.J.A.C. 10A:3-5);
7. \*.261 tampering with a test specimen;
8. \*.551 making intoxicants, alcoholic beverages or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia;
9. \*.552 being intoxicated;
10. \*.708 refusal to submit to a search (when the inmate has been given advance verbal notice that the search is being conducted due to reasonable suspicion related to possession, sale or use of prohibited substances such as drugs, alcohol or intoxicants and the advance notice has been documented on Form 259 Disciplinary Report); and
11. \*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself.

(d) Pursuant to the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2, a finding of guilt to \*.205 misuse of authorized medication (such as narcotics and controlled dangerous substances), as determined by the Disciplinary Hearing Officer or Adjustment Committee, may result in termination of contact visit privileges and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated.

(e) Pursuant to the "Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy" as defined at N.J.A.C. 10A:1-2.2, a finding of guilt to prohibited act \*.009 as determined by the Disciplinary Hearing Officer or Adjudication Committee, shall result in the termination of contact visit privileges and ineligibility for consideration for any custody status lower than medium custody until after the contact visit privileges are reinstated in addition to administrative action and program requirements in accordance with this section.

(f) In accordance with N.J.S.A. 30:4-140.1, a finding of guilt to \*.360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family shall subject an inmate to the forfeiture of up to 365 accumulated commutation credits and up to 72 work time credits.

(g) In addition to the sanctions in this section, administrative action may be taken when approved by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Administrator or designee. Such administrative action may include, but not be limited to, the following:

1. Recommending transfer to a more appropriate correctional facility or unit (excluding units not considered punitive, such as, but not limited to, a Security Threat Group Management Unit);
2. Increasing custody status;
3. Changing work or housing assignments;
4. Assigning to a treatment program;
5. Assessing restitution for damage, alteration or destruction of State property, the property of another person, or violation of prohibited act .707 which results in undue expenditure of State funds;
6. Recommending loss of telephone, radio and/or television privileges for up to one year;
7. Recommending loss of contact visit privileges for up to one year provided the offense is specifically related to, or concerned with a visit program, except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) through (e) or 5.2(c) through (e);
8. Recommending loss of recreation privileges for up to 180 days provided the offense is specifically related to, or concerned with a recreation privilege;
9. Disposal of an item(s) in accordance with the provisions of N.J.A.C. 10A:3-6.3(b)2, 3 and 4; and/or
10. For New Jersey State Prison only: placing in a "DRY" cell during prehearing and lockup status.

Administrative Correction, effective January 27, 1989.  
See: 21 N.J.R. 558(a).

Institutional name change.

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

See: 25 N.J.R. 658(a), 25 N.J.R. 1797(b).

Added sanctions of up to 14 hrs. extra duty and up to 2 weeks of confinement to room or housing area.

Amended by R.1993 d.584, effective November 15, 1993.

See: 25 N.J.R. 4435(a), 25 N.J.R. 5169(a).

Amended by R.1994 d.254, effective May 16, 1994.

See: 26 N.J.R. 1286(a), 26 N.J.R. 2129(a).

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

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

Deleted reference to the Adult Diagnostic and Treatment Center and the Edna Mahan Correctional Facility for Women, in (c)5 added damage

to property of another person, and in (c)6 added loss of telephone, radio and television privileges.

Administrative correction.

See: 29 N.J.R. 2563(a).

In (c)7, changed N.J.A.C. reference.

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

Added a new (c); and rewrote and recodified former (c) as (d).

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

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

Substituted references to the Administrator for references to the Superintendent throughout; and in (a) and (b), added 11.

Amended by R.2000 d.143, effective April 3, 2000.

See: 32 N.J.R. 166(a), 32 N.J.R. 1216(a).

Inserted a new (d); and recodified former (d) as (e), and made an internal reference change in the introductory paragraph.

Petition for Rulemaking.

Amended by R.2002 d.99, effective April 1, 2002.

See: 33 N.J.R. 4194(a), 34 N.J.R. 1426(a).

In (c), added "and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated;" following "privileges" in the introductory paragraph.

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

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

In (e), substituted "of" for "or" following "upon the recommendation" in the introductory paragraph and deleted ". (This shall be subject to confirmation by the Inter-Institutional Classification Committee.)" in 1.

Amended by R.2004 d.294, effective August 2, 2004.

See: 36 N.J.R. 1657(a), 36 N.J.R. 3552(a).

In (c), deleted former 3 and recodified former 4 through 12 as 3 through 11; added a new (d) and recodified former (d) through (e) as (e) through (f).

Amended by R.2005 d.132, effective May 2, 2005.

See: 37 N.J.R. 196(a), 37 N.J.R. 1522(a).

In (f), inserted "when approved" following "administrative action may be taken" in the introductory paragraph, inserted "and/or" preceding "television", deleted "and contact visit" preceding "privileges" in 6, added new 7, 8, recodified existing 7, 8 as 9, 10.

Emergency amendment, R.2005 d.435, effective November 15, 2005, (to expire January 14, 2006).

See: 37 N.J.R. 4575(a).

Added new (e); recodified former (e) as (f); in (f), corrected typographical errors in two places, added "the" following "victim or"; recodified former (f) as (g); in the introductory paragraph of (g), substituted "this section" for "(a), (b), (c), (d) and (e) above"; in (g)7 added "through (e)" in two places.

#### 10A:4-5.2 Schedule of sanctions for prohibited acts committed at the Youth Complex

(a) A finding of guilt for prohibited acts preceded by an asterisk (\*) render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Up to two weeks confinement to room or housing area;
3. Up to 30 days loss of one or more correctional facility privileges;
4. Up to 14 hours extra duty, to be performed within a maximum of two weeks;
5. Loss of furlough privileges for up to two months;
6. Confiscation;

7. Any sanction prescribed for On-The-Spot Correction

8. Administrative Segregation for a specific term not to exceed one year subject to confirmation by the Institutional Classification Committee;

9. Loss of commutation time up to 365 days, subject to confirmation by the Administrator (inmates serving indeterminate sentences are not subject to this sanction, but inmates housed in the youth complex who are serving prison terms are subject to this sanction);

10. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days; and/or

11. Referral to the Mental Health Unit for appropriate care/treatment.

(b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;

2. Loss of one or more correctional facility privileges up to 30 days;

3. Up to 60 days loss of commutation time subject to confirmation by the Administrator (inmates serving prison terms);

4. Administrative Segregation for a specified time not to exceed 90 days subject to confirmation by the Institutional Classification Committee (does not include transfer to the Prison Complex);

5. Up to two weeks confinement to room or housing area;

6. Up to 14 hours extra duty, to be performed within a maximum of two weeks;

7. Loss of furlough privileges for up to two months;

8. Confiscation;

9. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);

10. Suspension of one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days; and/or

11. Referral to the Mental Health Unit for appropriate care/treatment.

(c) Pursuant to the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2, a finding of guilt to any of the following prohibited acts shall result in termination of contact visit privileges and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated:

(see N.J.A.C. 10A:4-7);

1. \*.203 possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;

2. \*.204 use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;

3. \*.215 possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia;

4. \*.216 distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia;

5. \*.258 refusing to submit to testing for prohibited substances;

6. \*.259 failure to comply with an order to submit a specimen for prohibited substance testing (see N.J.A.C. 10A:3-5);

7. \*.261 tampering with a test specimen;

8. \*.551 making intoxicants, alcoholic beverages or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia;

9. \*.552 being intoxicated;

10. \*.708 refusal to submit to a search (when the inmate has been given advance verbal notice that the search is being conducted due to reasonable suspicion related to possession, sale or use of prohibited substances such as drugs, alcohol or intoxicants and the advance notice has been documented on Form 259 Disciplinary Report); and

11. \*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself.

(d) Pursuant to the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2, a finding of guilt to \*.205 misuse of authorized medication (such as narcotics and controlled dangerous substances), as determined by the Disciplinary Hearing Officer or Adjustment Committee, may result in termination of contact visit privileges and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated.

(e) Pursuant to the "Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy" as defined at N.J.A.C. 10A:1-2.2, a finding of guilt to prohibited act \*.009 as determined by the Disciplinary Hearing Officer or Adjudication Committee, shall result in the termination of contact visit privileges and ineligibility for consideration for any custody status lower than medium custody until after the contact visit privileges are reinstated in

addition to administrative action and program requirements in accordance with this section.

(f) In accordance with N.J.S.A. 30:4-140.1, a finding of guilt to \*360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family shall subject an inmate to the forfeiture of up to 365 accumulated commutation credits and up to 72 work time credits.

(g) In addition to the sanctions in this section, administrative action may be taken when approved by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Administrator or designee. Such administrative action may include, but not be limited to, the following:

1. Changing work, time, housing or program;
2. Assigning to a treatment program;
3. Assessing restitution for damage, alteration or destruction of State property, the property of another person, or a violation of prohibited act .707 which results in undue expenditure of State funds;
4. Recommending transfer to a more appropriate correctional facility or unit (excluding units not considered punitive, such as, but not limited to, a Security Threat Group Management Unit);
5. Increasing custody status;
6. Recommending loss of telephone, radio and/or television privileges for up to one year;
7. Recommending loss of contact visit privileges for up to one year provided the offense is specifically related to, or concerned with a visit program, except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) through (e) or 5.2(c) through (e);
8. Recommending loss of recreation privileges for up to 180 days provided the offense is specifically related to, or concerned with a recreation privilege; and/or
9. Disposal of an item(s) in accordance with the provisions of N.J.A.C. 10A:3-6.3 and 6.4.

Amended by R.1987 d.155, effective April 6, 1987.  
See: 19 N.J.R. 178(b), 19 N.J.R. 534(b).

Added new (b)3; recodified old (b)3-.8. to (b)4-.9.  
Amended by R.1991 d.276, effective June 3, 1991.  
See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Language added to clarify to whom the loss of commutation time applies; added recommending loss of privileges at (c)5.  
Amended by R.1993 d.584, effective November 15, 1993.

See: 25 N.J.R. 4435(a), 25 N.J.R. 5169(a).

Amended by R.1994 d.254, effective May 16, 1994.

See: 26 N.J.R. 1286(a), 26 N.J.R. 2129(a).

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

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

In (c)3 added damage to property of another person, and in (c)6 added loss of telephone, radio and television privileges.

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

Added a new (c); and rewrote and recodified former (c) as (d).

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

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

Substituted references to the Administrator for references to the Superintendent throughout; in (a) and (b), added 11; and in (d)7, changed N.J.A.C. reference.

Amended by R.2000 d.143, effective April 3, 2000.

See: 32 N.J.R. 166(a), 32 N.J.R. 1216(a).

Inserted a new (d); and recodified former (d) as (e), and made an internal reference change in the introductory paragraph.

Petition for Rulemaking.

See: 34 N.J.R. 784(b).

Amended by R.2002 d.99, effective April 1, 2002.

See: 33 N.J.R. 4194(a), 34 N.J.R. 1426(a).

In (c), added "and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated;" following "privileges" in the introductory paragraph.

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

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

Rewrote (a)8; in (e)4, deleted "and subject to confirmation by the Inter-Institutional Classification Committee" after "Security Threat Group Management Unit".

Amended by R.2004 d.294, effective August 2, 2004.

See: 36 N.J.R. 1657(a), 36 N.J.R. 3552(a).

In (c), deleted former 3 and recodified former 4 through 12 as 3 through 11; added a new (d) and recodified former (d) through (e) as (e) through (f).

Amended by R.2005 d.132, effective May 2, 2005.

See: 36 N.J.R. 196(a), 37 N.J.R. 1522(a).

In (f), inserted "when approved" following "administrative action may be taken" in the introductory paragraph, inserted "and/or" preceding "television", deleted ", and contact person" preceding "privileges" in 6, added new 7, 8, recodified existing 7 as 9.

Emergency amendment, R.2005 d.435, effective November 15, 2005, (to expire January 14, 2006).

See: 37 N.J.R. 4575(a).

Added new (e); recodified former (e) as (f); in (f), corrected typographical errors in two places, added "the" following "victim or"; recodified former (f) as (g); in the introductory paragraph of (g), substituted "this section" for "(a), (b), (c), (d) and (e) above"; in (g)7 added "through (e)" in two places.

### 10A:4-5.3 Limitation on sanctions

(a) All disciplinary charges pending when the inmate begins serving time in Disciplinary Detention must be adjudicated prior to the completion of the inmate's Disciplinary Detention time. No inmate may receive more than 15 days in Disciplinary Detention as a result of a single disciplinary charge except as established in N.J.A.C. 10A:4-6, Chronic violator.

1. If an inmate is found guilty of more than one disciplinary charge arising out of one incident, the inmate may receive up to 15 days for each disciplinary charge provided that the total time to be served in the Disciplinary Detention does not exceed 30 days.

2. If an inmate is found guilty of more than one disciplinary charge arising out of separate incidents and occurring before the inmate begins serving time in Disciplinary Detention, the inmate may receive up to 15 days for each disciplinary charge provided that the total time to be served in Disciplinary Detention does not exceed 30 days.