

**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Subchapter 13, Resident Discipline Program for the Training School for Boys at Skillman, was repealed by R.1988 d.239, effective June 6, 1988.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Subchapter 12, Appeal to Office of Administrative Law (OAL), was repealed by R.1988 d.543, effective November 21, 1988.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). Subchapter 12, Zero Tolerance Policies of the Department of Corrections, was adopted as concurrent new rules by R.2006 d.58, effective January 11, 2006. See: 37 N.J.R. 4575(a), 38 N.J.R. 993(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).

“Capital Sentence Unit” means the close custody unit to which inmates sentenced to death pursuant to N.J.S.A. 2C:11-3 are assigned until such time that the execution is carried out, or the sentence is commuted or changed to a lesser penalty.

“Close custody unit” shall mean an area within a correctional facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons.

“Commissioner” shall mean the Commissioner of the New Jersey Department of Corrections.

“Counsel substitute” means an individual, such as an inmate paralegal, teacher or social worker, who represents and defends an inmate at a disciplinary hearing proceeding which is conducted within a correctional facility under the jurisdiction of the Department of Corrections.

“Custody status” shall mean the degree of supervision that is required for an inmate to enter or leave a correctional facility.

“Department” shall mean the New Jersey Department of Corrections.

“Disciplinary Detention” shall mean removal of an inmate from the general population to a short term close custody unit because of a disciplinary infraction(s).

“Disciplinary Hearing Officer” shall mean a Department staff member designated to hear and adjudicate inmate violations of prohibited acts.

“Disciplinary report” shall mean a form on which a violation of a prohibited act is recorded along with other pertinent information.

“Disciplinary Sanction” shall mean a prescribed penalty that is imposed for violation of a prohibited act.

“Extra duty” shall mean a task(s) other than those related to an inmate’s work or program assignment(s) to which an inmate has been assigned as a result of a violation of a prohibited act.

“Fact witness” means a witness who provides a factual account of the incident based upon his or her being personally involved in, or having personally observed the incident or aspects thereof. For example, a Department of Corrections staff member who administers a test for prohibited substances may be considered a fact witness if a question of fact exists with regard to the taking, initial testing or custody of the specimen.

“Handbook on Discipline” means a handbook published by the Department of Corrections that is provided to inmates which contains the inmate’s rights and responsibilities,

the acts and activities which are prohibited, and the disciplinary procedures and sanctions imposed.

“Inmate handbook” means a booklet published by the correctional facility which contains correctional facility rules and procedures, and information about correctional facility services and programs.

“Major violations” shall mean the violation of a prohibited act that is preceded by an asterisk.

“Minor violations” shall mean the violation of a prohibited act that is not preceded by an asterisk.

“On-the-spot correction” shall mean the immediate imposition of a sanction upon an inmate for the violation of a minor prohibited act.

“Prehearing detention” shall mean removal of an inmate from the general population pending an investigation and a hearing into an alleged violation of a prohibited act.

“Prison Complex” shall mean state correctional facilities designated to house inmates serving prison sentences.

“Prohibited acts” shall mean conduct in violation of rules and regulations, which will result in imposition of sanctions.

“Repetitive witness” means a witness who is expected to provide substantially the same testimony as a previous witness.

“Serious bodily injury” shall mean bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ (see N.J.S.A. 2C:11-1).

“Special Classification Committee” (S.C.C.) shall mean the body composed of representatives from the Prison and Youth Complexes within the Division of Operations, which considers the transfer of inmates between complexes.

“Unavailable witness” is a witness who is unable, for medical, leave or other valid reason, to attend the disciplinary hearing.

“Weapon” shall mean anything readily capable of lethal use or of inflicting serious bodily injury (see N.J.S.A. 2C:39-1).

“Youth Complex” shall mean state correctional facilities designated to house inmates between the ages of 15 and 26 years, who have not previously been sentenced to a state prison in this State or in any other state.

Amended by R.1991 d.276, effective June 3, 1991.
See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Added definitions for “administrative close supervision unit”, “Capital sentence unit” and “counsel substitute”; amended definition for “superintendent”.

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).

Deleted "Superintendent" and "Vroom Readjustment Unit", added "Inmate handbook", and amended "Extra duty", "Handbook on Discipline" and "Special Classification Committee".
Amended by R.2004 d.180, effective May 3, 2004.
See: 36 N.J.R. 6(b), 36 N.J.R. 2241(b).

Deleted "Institutional Classification Committee (I.C.C.)" and "Inter-Institutional Classification Committee (I.I.C.C.)"
Amended by R.2004 d.293, effective August 2, 2004.
See: 36 N.J.R. 1867(a), 36 N.J.R. 3551(a).

Inserted "Fact witness", "Repetitive witness" and "Unavailable witness".

10A:4-1.4 Forms

(a) The following forms related to Inmate Discipline are printed by the Bureau of State Use Industries—DEPTCOR and each correctional facility shall purchase a supply of these forms by contacting the Bureau:

1. 254-I Discipline Record Card;
2. 259 Disciplinary Report;
3. 259A Adjudication of Disciplinary Report.

(b) The following forms related to Inmate Discipline shall be reproduced by each correctional facility from originals that are available by contacting the Administrative Rules Unit:

1. 251-I Chronic Violator Notice;
2. 251-II Chronic Violator Adjudication Notice;
3. 252 Inmate Disciplinary Hearing Attendance Refusal Notice;
4. 253-I On-The-Spot Disciplinary Report/Adjudication;
5. 255-I Authorization for Prehearing Detention;
6. 256-I Appeal of Disciplinary Decision;
7. 256-II Disposition of Disciplinary Appeal.

(c) The following form related to inmate discipline shall be reproduced by each correctional facility from an original that is available by contacting the Health Services Unit:

1. HSU-010 Request for Psychological/Psychiatric Evaluation.

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

Institutional name change.
Amended by R.1996 d.237, effective May 20, 1996.
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).
Amended by R.1999 d.187, effective June 7, 1999 (operative July 1, 1999).
See: 31 N.J.R. 831(a), 31 N.J.R. 1487(b).

Added (c).
Administrative change.
See: 35 N.J.R. 1137(a).

SUBCHAPTER 2. PUBLICATION OF RULES

10A:4-2.1 Notification of inmates about rules and regulations

(a) At the time of reception into the New Jersey Department of Corrections, each inmate shall receive a copy of the Handbook on Discipline and thereby be advised in writing of his or her rights and responsibilities, the acts and activities which are prohibited, the rules which must be followed and the disciplinary process within the correctional facilities of the Department of Corrections. Each inmate shall be required to sign a form acknowledging receipt of the Handbook on Discipline. A refusal by the inmate to sign shall be noted on the form by the issuing staff member.

(b) At the time of arrival at a correctional facility, each inmate shall receive a copy of the correctional facility Inmate Handbook which contains correctional facility rules, procedures and information about services and programs. The correctional facility Inmate Handbook shall be provided as part of the admission-orientation program in accordance with N.J.A.C. 10A:8. Each inmate shall be required to sign a form acknowledging receipt of the correctional facility Inmate Handbook. A refusal by the inmate to sign shall be noted on the form by the issuing staff member.

(c) All changes in disciplinary rules shall be posted in housing units and other areas of the correctional facility and incorporated into the next revision of the Handbook on Discipline and when appropriate, in the correctional facility Inmate Handbook.

(d) When a correctional facility has a large number of inmates in the population who speak a foreign language, the rules shall be printed and presented verbally in the foreign language.

(e) For illiterate inmates or inmates otherwise unable to read or write due to a physical/medical inability, the rules shall be verbally communicated and assistance shall be provided to those inmates unable to provide written acknowledgement.

Amended by R.1991 d.276, effective June 3, 1991.
See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Corrected internal N.J.A.C. cite to Handbook.
Amended by R.1996 d.237, effective May 20, 1996.
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

10A:4-2.2 Review of inmate rules

The Administrator of the correctional facility shall be responsible for maintaining an ongoing rule review process to ensure that the rules are current and appropriate.

Amended by R.1996 d.237, effective May 20, 1996.
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).