

CHAPTER 9

CLASSIFICATION PROCESS

Authority

N.J.S.A. 30:1B-6, 30:1B-10, 30:4-16.2, 2C:47-1 et seq. and 2A:164.

Source and Effective Date

R.2002 d.190, effective May 24, 2002.
See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Chapter Expiration Date

Chapter 9, Classification Process, expires on May 24, 2007.

Chapter Historical Note

Chapter 9, Classification Process, was adopted as R.1987 d.48, effective January 20, 1987. See: 18 N.J.R. 1649(a), 19 N.J.R. 218(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Classification Process, expired on January 20, 1992.

Chapter 9, Classification Process, was adopted as new rules by R.1992 d.79, effective February 18, 1992. See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Classification Process, was readopted as R.1997 d.122, effective February 14, 1997. See: 29 N.J.R. 80(b), 29 N.J.R. 880(a). As a part of R.1997 d.122, effective March 17, 1997, Subchapter 9, Reception and Placement Process for Male Juveniles; Subchapter 10, Juvenile Institutional Classification Committee (J.I.C.C.); and Subchapter 11, Juvenile Female Classification Committee (J.F.C.C.), were repealed. See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Chapter 9, Classification Process, was readopted as R.2002 d.190, effective May 24, 2002. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. INTRODUCTION

10A:9-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish objective criteria and a standardized process for inmate evaluation, custody level assignment, and correctional facility assignment;
2. Establish the responsibilities and functions of the Institutional Classification Committees (I.C.C.);
3. Establish eligibility criteria for reduced custody status;
4. Establish provisions for the award and forfeiture of commutation time and work credits;
5. Establish provisions for the transfer of inmates between correctional facilities;
6. Establish provisions for the parole recommendation process for inmates incarcerated pursuant to N.J.S.A. 2C:47 and 2A:164; and
7. Establish rules to fulfill the functions of the Department of Corrections as enumerated in N.J.A.C. 10A:1-1.1.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Added (a)7.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Deleted (a)6, relating to a process for assignment and transfer of juvenile offenders; and recodified (a)7 as (a)6.

Amended by R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

In (a), added a new 1 and recodified former 1 through 6 as 2 through 7.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Rewrote the section.

10A:9-1.2 Scope

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

(b) N.J.A.C. 10A:9-8 shall be applicable to inmates sentenced under N.J.S.A. 2C:47 and 2A:164 who are housed at either the Adult Diagnostic and Treatment Center (A.D.T.C.) or other facilities.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Substantially amended section.

10A:9-1.3 Definitions

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

“A.D.T.C.” means the Adult Diagnostic and Treatment Center; the correctional facility designated to house inmates who have been convicted pursuant to N.J.S.A. 2C:47-1 et seq. and 2A:164-1 et seq.

“Assaultive offense” means a criminal conviction for an offense involving violence or use of force, or any offense involving the threat or attempted use of force or violence including, but not limited to, a sexual offense, carjacking, and kidnapping.

“Assessment scale” means a fixed progressive reference system used as a measurement standard to determine the relative value, degree, importance, rank, or rating of factors including, but not limited to, criminal and/or assaultive offenses or prohibited acts, escape history, time to expiration of sentence or parole, inmate age, education, employment history, alcohol/drug use, or correctional facility program participation.

“Classification Committee” means a group of correctional staff members that have been designated to make decisions related to the needs of inmates from admission to discharge.

“Classification material” means the documents in a classification folder on which information regarding an inmate is recorded such as, but not limited to, psychological or psychiatric evaluations, rap sheets, disciplinary charges, program participation, pre-sentence reports, and medical reports.

“Custody level” means the numerical rating that represents the supervision, movement, and access to jobs and programs afforded to inmates based upon objective and quantitative criteria.

“Custody status” means the custody assignment of an inmate. There are six categories:

1. Close custody;
2. Maximum custody;
3. Medium custody;

35. .603 possession of gambling paraphernalia;
36. .701 unauthorized use of mail or telephone;
37. .702 unauthorized contacts with the public;
38. .703 correspondence or conduct with a visitor in violation of regulations;
39. .705 commencing or operating a business or group for profit or commencing or operating a non-profit enterprise without the approval of the Administrator;
40. .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator;
41. .707 failure to keep a scheduled appointment with medical, dental or other professional staff;
42. .709 failure to comply with a written rule or regulation of the correctional facility;
43. .753 purchasing anything on credit; or
44. .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.

(e) The following prohibited acts appear at the low moderate level of the Severity of Offense—Disciplinary Infractions Scale. Inmates found guilty of any of the below listed disciplinary infractions shall receive two points on the Reclassification Instrument.

1. *.008 abuse/cruelty to animals;
2. .053 indecent exposure;
3. .209 loaning of property or anything of value;
4. .212 possessing unauthorized clothing;
5. .213 mutilating or altering clothing issued by the government;
6. .302 malingering, feigning an illness;
7. .303 failing to perform work as instructed by a staff member;
8. .553 smoking where prohibited;
9. .554 possession of tobacco products or matches where not permitted;
10. .651 being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards; or
11. .652 tattooing or self mutilation.

(f) The following prohibited act appears at the low level of the Severity of Offense—Disciplinary Infractions Scale. Inmates found guilty of the below listed disciplinary infrac-

tion shall receive one point on the Reclassification Instrument.

1. .752 giving money or anything of value to, or accepting money or anything of value from, another inmate.

New Rule, R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Rewrote (c) and (d).

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

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

Rewrote the section.

10A:9-2.12 Override Code Reference Index

(a) In accordance with the description of the override code, when an inmate cannot be assigned to the recommended custody status indicated by the custody level score on the Initial or Reclassification Instruments, the appropriate override code shall be applied and any specific information concerning the reason for the override shall be documented and maintained in the inmate record:

1. Code A: Medium custody status assignment or above due to mandatory minimum, No Early Release Act (NERA) parole violation, or length of term requirements pursuant to N.J.A.C. 10A:9-4.6;

2. Code B: Medium custody status assignment or above pending disposition of non-permissible detainer or open charge pursuant to N.J.A.C. 10A:9-4.6;

3. Code C: Permanent custody prohibition/bar. Medium custody status assignment or above only due to escape history pursuant to N.J.A.C. 10A:9-4.8;

4. Code D: Medium custody status assignment or above due to escape history pursuant to N.J.A.C. 10A:9-4.6(s);

5. Code E-1: Permanent custody prohibition/bar. Medium custody status assignment or above only due to sexual or arson offense convictions pursuant to N.J.A.C. 10A:9-4.8;

6. Code E-2: Permanent custody prohibition/bar. Gang minimum custody status assignment or above only due to sexual or arson offense convictions pursuant to N.J.A.C. 10A:9-4.7;

7. Code F: Medium custody status assignment or above pending United States Immigration and Naturalization Service (USINS) response indicating interest pursuant to N.J.A.C. 10A:9-4.6;

8. Code G-1: Medium custody status assignment or above due to keep separate status pursuant to N.J.A.C. 10A:9-4.5;

9. Code G-2: Medium custody status assignment or above due to unfavorable psychological/psychiatric reports pursuant to N.J.A.C. 10A:9-3.3 or 4.5;

10. Code H: Medium custody status assignment or above due to voluntary or administrative protective custody pursuant to N.J.A.C. 10A:9-4.5;

11. Code I-1: Medium custody status assignment or above due to specialized substance use disorder screening or treatment pursuant to N.J.A.C. 10A:9-4.6;

12. Code I-2: Medium custody status assignment or above due to specialized medical treatment pursuant to N.J.A.C. 10A:9-4.5;

13. Code I-3: Medium custody status assignment or above due to specialized psychological/psychiatric treatment pursuant to N.J.A.C. 10A:9-4.5;

14. Code J: Requirement for medium custody status assignment or above due to pending disciplinary infraction(s);

15. Medium custody status assignment or above due to reasonable belief of the classification committee that the inmate will be unsuccessful in a lower custody status assignment at this time due to:

i. Code K-1: Field account of the offense pursuant to N.J.A.C. 10A:9-3.3;

ii. Code K-2: Prior criminal record pursuant to N.J.A.C. 10A:9-3.3;

iii. Code K-3: Previous incarcerations pursuant to N.J.A.C. 10A:9-3.3;

iv. Code K-4: Institutional adjustment pursuant to N.J.A.C. 10A:9-3.3;

v. Code K-5: Reports from professional and custody staff pursuant to N.J.A.C. 10A:9-3.3 or 4.5;

vi. Code K-6: Reasons relating to the best interests of the inmate pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vii. Code K-7: Reasons relating to the safe orderly operation of the Department of Corrections facility pursuant to N.J.A.C. 10A:9-3.3;

viii. Code K-8: Reasons relating to the safety of the community or public at large pursuant to N.J.A.C. 10A:9-3.3;

ix. Code K-9: Reasons relating to the notoriety of the offense pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

16. Reduced custody status due to reasonable belief of the classification committee that the inmate would be successful in a lower than recommended custody status assignment at this time due to:

i. Code L-1: Previous correctional facility adjustment pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

ii. Code L-2: The nature of the offense not being as severe as the assessment scale indicates pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

iii. Code L-3: The short amount of time remaining on the inmate's sentence pursuant to N.J.A.C. 10A:9-4.5;

iv. Code L-4: Any reason relating to the best interests of the inmate pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

v. Code L-5: Any reason relating to the safe, orderly operation of the Department of Corrections facility pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vi. Code L-6: Prior criminal record pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vii. Code L-7: Previous incarcerations pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

viii. Code L-8: Reports from professional and custody staff pursuant to N.J.A.C. 10A:9-3.3 and 4.5; or

17. Code M: Medium custody status assignment or above due to a disciplinary sanction for an alcohol/drug related prohibited act pursuant to N.J.A.C. 10A:9-4.6.

(b) When the reason for an objective classification scoring instrument override ceases to apply at a time other than regular review time, the inmate shall be rescored on the same objective classification scoring instrument that was used at the last review.

(c) All objective classification overrides shall be subject to review by the Director, Division of Operations or designee.

New Rule, R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), added NJAC references in 10 and 14 and inserted "assignment" following "status" in 13.

Amended by R.2003 d.235, effective June 16, 2003.

See: 35 N.J.R. 1185(a), 35 N.J.R. 2647(a).

In (a)1, inserted "No Early Release Act (NERA) parole violation" following "mandatory minimum".

Amended by R.2003 d.429, effective November 3, 2003.

See: 35 N.J.R. 2778(a), 35 N.J.R. 5108(a).

Rewrote the section.

SUBCHAPTER 3. INSTITUTIONAL CLASSIFICATION COMMITTEE (I.C.C.)

10A:9-3.1 Responsibilities of the Institutional Classification Committee (I.C.C.)

(a) Each correctional facility shall establish an Institutional Classification Committee (I.C.C.) which shall be responsible for:

1. Assignment of inmates to work, educational, vocational and treatment programs appropriate to their needs;

2. Monitoring the progress of inmates by performing periodic reviews to ensure that rehabilitative efforts are being maximized;
3. Review of inmate applications for change in custody status;
4. Review of inmate requests for transfer to other facilities;
5. Making changes in the housing or program assignments of inmates;
6. Assignment of inmates to community release programs;
7. Review of the imposition of the Administrative Segregation sanction;
8. Review of Restrictive Activities Program assignments at the Adult Diagnostic and Treatment Center (A.D.T.C.);
9. Review of referrals from the Disciplinary Hearing Officers; and
10. Review and approval or disapproval of applications for the Electronic Monitoring/Home Confinement Program.

Recodified from 10A:9-3.2 by R.1992 d.79, effective February 18, 1992.
See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Repealed section 10A:9-3.1 was "Composition of the Institutional Classification Committee (I.C.C.)". Revised text.
Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Rewrote the section.

10A:9-3.2 Composition of the Institutional Classification Committee (I.C.C.)

(a) The members of the Institutional Classification Committee (I.C.C.) at each of the correctional facilities shall be composed of the:

1. Administrator, Associate Administrator or Assistant Superintendent;
2. Director of Education or designee;
3. Social Work Supervisor or designee;
4. Director of Custody Operations or custody supervisor designee;
5. Supervisor of State Use Industries (DEPTCOR) or designee, where applicable; and
6. Classification Officer (non-voting member).

(b) Staff members other than those listed above, may be designated by the Administrator to serve as members or alternate members of the I.C.C.

(c) The I.C.C. shall meet weekly, and more often as required.

New Rule, R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Old section 10A:9-3.2, Responsibilities of the Institutional Classification Committee (I.C.C.) recodified to 10A:9-3.1.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (a), deleted "adult" preceding "correctional facilities"; deleted (a)2, providing that the Director of Psychology is a committee member; redesignated (a)3 through (a)7 as (a)2 through (a)6; and provided for membership by designees.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a)1, substituted "Administrator, Associate Administrator" for "Superintendent"; in (b), substituted "Administrator" for "Superintendent".

10A:9-3.3 Institutional Classification Committee (I.C.C.) decision making criteria

(a) Decisions on transfers and assignments to housing; work, educational, vocational, or treatment programs; custody status; and community release programs shall be made after consideration of the following factors:

1. The objective classification scoring results as indicated on form CRAU-006 or CRAU-007 (excluding inmates committed to A.D.T.C.);
2. Needs and interests expressed by inmate;
3. Age;
4. Family status;

10A:9-3.7 Discussions

(a) An inmate's case may be brought to the attention of the Institutional Classification Committee (I.C.C.) prior to his or her review date upon referral by a staff member or a correctional facility committee for the purpose of making a change in:

1. Work assignment;
2. Custody status;
3. Housing assignment; or
4. Program assignment.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), substituted "upon referral" for "if it has been referred" and "a correctional facility" for "an institutional".

10A:9-3.8 Work assignments

(a) Decisions on inmate work assignments shall be made by the Institutional Classification Committee (I.C.C.) based upon:

1. Physical condition;
2. Mental and mechanical aptitudes;
3. Past work experience;
4. Occupational interests;
5. Vocational needs of the inmate;
6. Opportunities upon release; and
7. Availability of jobs within the correctional facility.

(b) When the I.C.C. has assigned an inmate to a job, the inmate may not request a job change until at least two months of work has been completed at the job.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (b).

Petition for Rulemaking.

See: 32 N.J.R. 3499(a).

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (b), substituted "at" for "on".

10A:9-3.9 Educational assignments

(a) Determining factors in referring an inmate to an educational program may include, but are not limited to:

1. Recommendation of the Supervisor of Educational Programs;
2. Test results;
3. Interest and aptitude of the inmate;
4. Sentence length; and/or
5. Community employment plan.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised section.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), added "but are not limited to" following "include" in the introductory paragraph.

10A:9-3.10 Counseling assignments

(a) Inmates with emotional and/or personal problems may be referred to the appropriate staff members for counseling or therapy.

(b) Inmates may be approved for group counseling and other therapy programs by the Institutional Classification Committee (I.C.C.) and may be assigned by the staff member in charge of the program.

(c) Inmates may be removed from these programs only by the decision of the I.C.C.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (a)-(b).

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), added "for counseling or therapy" following "members".

10A:9-3.11 Reassignments

(a) Reassignments are cases referred to the Institutional Classification Committee (I.C.C.) for a change in some area of an inmate's program.

(b) Any change in or addition to the inmate's institutional program shall be made by the I.C.C. Reassignments may be made upon inmate or staff request, when deemed necessary.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (b), substituted "institutional" for "initial" and "when deemed necessary" for "as the need arises".

10A:9-3.12 Community release programs

The Institutional Classification Committee (I.C.C.) may assign an inmate to a community release program when the inmate has been classified as full minimum custody status and meets the criteria for assignment to the program.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised section.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Inserted "status" following "custody".

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Deleted "in which the inmate will participate" following "program".

10A:9-3.13 Transfers

(a) Except for inmates assigned to the Adult Diagnostic and Treatment Center (A.D.T.C.) and the Edna Mahan Correctional Facility for Women (EMCF), the I.C.C. of the correctional facility where the inmate is currently housed

shall review an inmate's request for transfer to another correctional facility.

(b) When the I.C.C. has determined that the inmate meets the criteria for assignment to a correctional facility within the security level indicated by the inmate's custody status, the I.C.C. shall recommend such transfer to the Administrator where the inmate is currently housed.

(c) Form CRAF-003 Agreement of Transfer, shall be initiated by the Administrator of the sending facility. If the Administrator of the correctional facility to which the inmate is requesting transfer signs Form CRAF-003, the sending facility shall forward the completed form to the Inter-Institutional Classification Committee (I.I.C.C.) or the Special Classification Committee (S.C.C.) for consideration.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Rewrote (b) and added (c).

Amended by R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

In (b), inserted "within the security level indicated by the inmate's custody status," and substituted "Administrator" for "Superintendent"; rewrote (c).

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), deleted "at Clinton" following "(EMCF)" and inserted "of the correctional facility where the inmate is currently housed" following I.C.C.

10A:9-3.14 Required reviews

(a) Inmate records shall be rescored on the objective classification scoring instrument used at the last review when there is a change in sentencing or official record information that affects one or more of the following criteria assessed on an objective classification scoring instrument:

1. Severity of current offense;
2. Prior assaultive offense history;
3. Escape history;
4. Balance of term to be served to expiration of sentence—Initial Instrument only;
5. Alcohol/drug use history—Initial Instrument only;
6. Current detainer/open charges;
7. Prior felony convictions;
8. Stability factors—Initial Instrument only; or
9. Balance of term to parole eligibility date—Reclassification Instrument only.

(b) When a non-permissible detainer/open charge is received on an inmate assigned to reduced custody status:

1. The Administrator shall be notified by the Classification Officer IV or designee;

2. A temporary increase in custody status shall be placed on the inmate where deemed necessary; and

3. The inmate shall be scheduled for review at the next I.C.C. meeting following the temporary increase in custody status.

(c) If an override is required on an objective classification scoring instrument that has been rescored due to a change in inmate sentencing or official record information, or the receipt or return of a non-permissible detainer/open charge, the inmate shall be referred to the Director, Division of Operations for review.

(d) Inmates shall be reviewed and scored on the Reclassification Instrument upon a finding of guilt to a prohibited act(s) when:

1. A sanction imposed by the Disciplinary Hearing Officer includes a referral to I.C.C., except if Administrative Segregation is part of the imposed sanction;

2. A minimum custody status inmate is found guilty of a prohibited act in the highest or high level of the Severity of Offense—Disciplinary Infractions Scale; or

3. Referred by the Administrator.

(e) When a disciplinary sanction includes Administrative Segregation, the inmate shall be reviewed and scored on the Reclassification Instrument prior to release from the Administrative Segregation Unit (see N.J.A.C. 10A:5-3).

New Rule, R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

Former N.J.A.C. 10A:9-3.14, Written procedures, recodified to N.J.A.C. 10A:9-3.15.

10A:9-3.15 Written procedures

(a) Each correctional facility shall develop written classification procedures that are in accordance with this subchapter.

(b) These written procedures shall be reviewed and updated annually and submitted to the Bureau of Correctional Information and Classification Services, Office of Policy and Planning, for review and approval.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (b), inserted reference to the Office of Policy and Planning.

Recodified from N.J.A.C. 10A:9-3.14 by R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

SUBCHAPTER 4. ELIGIBILITY CRITERIA FOR REDUCED CUSTODY CONSIDERATION

10A:9-4.1 Eligibility for reduced custody

(a) There are six categories of custody status within the New Jersey Department of Corrections:

1. Close custody;
2. Maximum custody;
3. Medium custody;
4. Gang minimum custody;
5. Full minimum custody; and
6. Community custody.

(b) The criteria set forth in this subchapter and the objective classification instrument score shall be applied by the Institutional Classification Committee (I.C.C.) to determine whether an inmate is eligible for reduced custody consideration.

Amended by R.1990 d.195, effective April 2, 1990.

See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).

Added reference to I.C.C. in (a).

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised text.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Inserted close custody, medium custody, and community custody as additional categories; and deleted (b)1 through (b)3, specifying the available reduced custody options.

Amended by R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

In (b), inserted "and the objective classification instrument score" preceding "shall be applied".

(b) Inmates classified as "maximum custody status" shall be assigned to activities within the confines of the correctional facility under continuous supervision.

(c) Inmates classified as "medium custody status" shall be assigned to activities inside the security perimeter of the correctional facility under frequent and direct observation of staff.

(d) Inmates classified as "gang minimum custody status" may be assigned to activities or jobs which routinely require them to move outside the security perimeter of the correctional facility, but on the grounds of the facility and under continuous supervision of a custody staff member, civilian instructor or other employee authorized to supervise inmates. The time served in gang minimum custody status shall be at the discretion of the Institutional Classification Committee (I.C.C.).

(e) Inmates classified as "full minimum custody status" are those assigned to:

1. Work details, jobs or programs outside the main correctional facility, (on or off the grounds of the facility) with minimal supervision; and/or
2. A satellite unit or minimum security trailer unit.

(f) Inmates must be classified as "community custody status" in order to participate in community release programs (see N.J.A.C. 10A:20) or be assigned to community-based jobs. Community custody status may require periodic supervision in the community as appropriate to circumstances of work or activities. Full minimum custody status is a prerequisite to obtaining community custody status.

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1990 d.195, effective April 2, 1990.

See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).

Deleted references to "in-and-out custody status", throughout.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Inserted new (a) and (c); recodified former (a), (b), and (c) as (b), (d), and (e), respectively; deleted former (d) and (e), requiring completion of gang minimum custody to be eligible for minimum custody and requiring full minimum custody status to be eligible for community release programs; in (b), inserted "status" following "custody"; in (d), substituted "under continuous supervision" for "within eyesight" and added the last sentence; and added (f).

Petition for Rulemaking.

31 N.J.R. 3537(a), 31 N.J.R. 4127(b).

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (d), inserted "perimeter" following "security" and substituted "custody staff member" for "correction officer" preceding "civilian".

Case Notes

Commissioner of Corrections empowered to reclassify camp inmates whose records reflected convictions of homicide; Commissioner's non-individualized reclassification of prison camp inmates did not implicate prisoner's federally protected liberty interests or require due process type hearing; Commissioner's reclassification was inconsistent with departmental regulations. *Jenkins v. Fauver*, 108 N.J. 239, 528 A.2d 563 (1987).

10A:9-4.2 No right to reduced custody

A reduction in custody status is a privilege and not a right.

Case Notes

Under governing regulations, neither the nature of an inmate's conviction, except for those offenses specifically excluded, nor the location of a correctional facility within a residential area alone, may permanently disqualify in inmate from consideration for "full minimum custody status." *Smith v. Dept. of Corrections*, 346 N.J. Super. 24, 786 A.2d 165 (A.D. 2001).

Decision of Institutional Classification Committee, initially withholding "full minimum custody status" from newly-transferred inmate with aggravated manslaughter conviction who had received that custody status at other prison facility, was not abuse of discretion. *Smith v. Dept. of Corrections*, 346 N.J. Super. 24, 786 A.2d 165 (A.D. 2001).

10A:9-4.3 Custody levels

(a) Inmates classified as "close custody status" shall be assigned to selected activities such as work and recreation within the confines of the unit under continuous supervision.

Case Notes

Under governing regulations, neither the nature of an inmate's conviction, except for those offenses specifically excluded, nor the location of a correctional facility within a residential area alone, may permanently disqualify in inmate from consideration for "full minimum

custody status." *Smith v. Dept. of Corrections*, 346 N.J. Super. 24, 786 A.2d 165(A.D. 2001).

Decision of Institutional Classification Committee, initially withholding "full minimum custody status" from newly-transferred inmate with aggravated manslaughter conviction who had received that custody status at other prison facility, was not abuse of discretion. *Smith v. Dept. of Corrections*, 346 N.J. Super. 24, 786 A.2d 165(A.D. 2001).

Decision of assistant superintendent at prison facility, denying newly-transferred inmate's application for the "full minimum custody status" he had been granted at other facility, was not a final, immutable determination due to inmate's aggravated manslaughter conviction and/or the location of the prison with respect to a residential area; applicable regulations allowed continuous review of inmate's custody status. *Smith v. Dept. of Corrections*, 346 N.J. Super. 24, 786 A.2d 165(A.D. 2001).

For due process purposes, prisoner had no liberty interest in retaining "full minimum custody status" when he was transferred from one correctional facility to another. *Smith v. Dept. of Corrections*, 346 N.J. Super. 24, 786 A.2d 165(A.D. 2001).

10A:9-4.4 Authority of Classification Committees

(a) Changes in inmate custody levels within a particular correctional facility shall be made by the Institutional Classification Committee (I.C.C.).

1. In an emergency situation, or when additional information is received which negatively affects an inmate's suitability to remain in reduced custody, the inmate's custody level may be increased by order of the Administrator, Associate Administrator, Assistant Superintendent or Director of Custody Operations.

2. Custody level changes initiated due to conditions in (a)1 above must be reviewed and approved by the I.C.C. as soon as is reasonably feasible.

(b) The Inter-Institutional Classification Committee (I.I.C.C.) is authorized to review and change the custody status of any inmate.

(c) The I.I.C.C. is authorized, at initial classification, to assign eligible inmates directly to full minimum custody status at Jones Farm and other minimum security correctional facilities without the prerequisite of a successful completion of time in gang minimum custody status.

Amended by R.1990 d.195, effective April 2, 1990.
See: 21 N.J.R. 3050(a), 22 N.J.R. 1143(a).

At (a)2., changed time frame to reasonably possible.
Amended by R.1992 d.79, effective February 18, 1992.
See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (c).
Amended by R.1997 d.122, effective March 17, 1997.
See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (b), deleted "whom it transfers or reassigns to another correctional facility or unit" following "status of any inmate"; and in (c), substituted "of a successful completion of time in gang minimum custody" for "service of time required for gang minimum custody".
Amended by R.2002 d.190, effective June 17, 2002.
See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), substituted "Administrator, Associate Administrator" for "Superintendent" in 1, deleted "such" preceding "custody" and inserted "initiated due to conditions in (a)1 above" following "changes" in 2.

10A:9-4.5 Discretion of Institutional Classification

Committee (I.C.C.); factors to be considered

(a) In making decisions to reduce an inmate's custody status, the I.C.C. shall take into consideration all relevant factors. These factors may include, but are not limited to:

1. Field account of the present offense;
2. Prior criminal record;
3. Previous incarcerations;
4. Correctional facility adjustment;
5. The objective classification score;
6. Reports from professional and custody staff; and
7. Any reason which, in the opinion of the Administrator and the I.C.C., relates to the best interests of the inmate or the safe, orderly operation of the correctional facility or the safety of the community or public at large.

(b) When considering inmates whose present offense or past history involves arson, escape, assault, murder or sexual offenses, or who have been known to have psychological problems, the I.C.C. shall utilize psychiatric or psychological evaluations which are not more than six months old and which address suitability for reduced custody status.

(c) I.C.C.s shall not be compelled by these criteria to automatically grant a reduction in custody status to every inmate who is eligible for consideration.

(d) I.C.C.s have no authority to grant reductions in custody status to inmates who fall outside the eligibility guidelines unless appropriate requests for rule exemptions are filed and approved, pursuant to N.J.A.C. 10A:1-2, General provisions.

(e) An inmate who has been granted reduced custody status may have his or her custody status increased for any of the following reasons, subject to confirmation by the I.C.C.:

1. On recommendation of the Disciplinary Hearing Officer in connection with disciplinary actions;
2. Upon receipt of a non-permissive detainer;
3. Upon receipt of credible, reliable information from official authorities or informants, that the inmate may be an escape risk;
4. Failure of the inmate to adjust to the social or programmatic needs of the reduced custody unit; and/or
5. Any reason which, in the opinion of the Administrator and I.C.C., relates to the best interests of the inmate or the safe, orderly operation of the correctional facility or the safety of the community or public at large.

(f) The inmate shall receive a written notice of the reason(s) of the I.C.C. for increasing the inmate's custody status within five business days.

Amended by R.1988 d.30, effective January 19, 1988.
See: 19 N.J.R. 1782(b), 20 N.J.R. 194(b).

Added text to (f)6 "or the safety of the public at large or community."
Amended by R.1988 d.106, effective March 7, 1988.

See: 33 N.J.R. 1043(a), 33 N.J.R. 2297(a).

Inserted a new (b), recodified former (b) as (c), and inserted “, except as otherwise set forth in this section” following “May 24, 1979” in the introductory paragraph; recodified former (c) and (d) as (d) and (e); recodified former (e) as (f) and inserted “, except as otherwise set forth in this section” following “May 24, 1979” in the introductory paragraph; recodified former (f) through (h) as (g) through (i).

Amended by R.2003 d.324, effective August 4, 2003.

See: 35 N.J.R. 1761(a), 35 N.J.R. 3558(b).

Rewrote (b).

10A:9-5.6 Work credits for inmates housed in adult county correctional facilities

(a) State sentenced inmates who are being housed in adult county correctional facilities shall be credited with one

day work credit for every five days worked beginning on the 16th day after sentencing. All inmates confined in adult county correctional facilities are charged with the responsibility to keep their cells clean; such assignments shall be considered as five day per week jobs. Work credits prior to sentencing must be certified by county authorities.

(b) Inmates that are parole violaters without additional charges who are held in an adult county correctional facility on a parole warrant will receive work credits beginning on the 16th day after they have been in custody.

(c) Inmates that are Intensive Supervision Program (I.S.P.) violators who are in adult county correction facilities, will receive work credits beginning on the 16th day after they have been in custody.

(d) Parolees housed in adult county correctional facilities on additional charges and sentenced on additional charges may receive work credits beginning on the 16th day after sentencing. If an inmate's parole is revoked prior to sentencing, the effective date on which to begin work credits shall be the date of the parole revocation.

(e) Parolees serving county jail sentences in conjunction with parole violations may receive work credits beginning on the date of parole revocation.

(f) Inmates with approved parole dates who are transferred to adult county correctional facilities prior to parole shall receive work credits as if the inmates were still assigned to a five day or seven day per week job in a State correctional facility. Inmates in minimum custody status at the time of transfer shall continue to receive compensation for that status during their stay in the adult county correctional facility in accordance with N.J.S.A. 30:4-92.

Amended by R.1987 d.332, effective August 17, 1987.
See: 19 N.J.R. 843(a), 19 N.J.R. 1560(b).

Deleted text in (b) and substituted new; deleted text in (d) "upon completion of . . . has been revoked" and substituted "on the date of parole revocation".

Amended by R.1988 d.332, effective July 18, 1988.
See: 20 N.J.R. 879(b), 20 N.J.R. 1716(a).

Added new (c); redesignated existing (c)-(e) as (d)-(f).

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised text.

Amended by R.1999 d.340, effective October 4, 1999.

See: 31 N.J.R. 1848(a), 31 N.J.R. 2891(b).

In (d), deleted "and wages" preceding "beginning", and deleted "wages and" following "begin", and in (e), deleted "wages and" following "receive".

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Inserted "adult" preceding "county correction facility" throughout.

10A:9-5.7 Reports of earned credits

Regular reports of earned credits should be forwarded to the parent correctional facility when inmates are housed in county correctional facilities or in half-way house assignments.

Recodified from 10A:9-5.8 and amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Deleted "at V.R.U.," following "inmates are housed". Section was "Inmates in Vroom Readjustment Unit (V.R.U.)".

10A:9-5.8 (Reserved)

Recodified to 10A:9-5.7 by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

SUBCHAPTER 6. INTER-INSTITUTIONAL CLASSIFICATION COMMITTEE (I.I.C.C.)

10A:9-6.1 Responsibilities of the Inter-Institutional Classification Committee (I.I.C.C.)

(a) The I.I.C.C. shall be responsible for the initial correctional facility assignments of male inmates who have been committed to the custody of the Commissioner, Department of Corrections.

(b) Except for confirming transfers to and from Administrative Segregation, the I.I.C.C. is not responsible for the post-reception decision regarding the assignment of female inmates. Female inmates shall be assigned to the Edna Mahan Correctional Facility for Women.

(c) The I.I.C.C. shall also have the following responsibilities to:

1. Decide requests for transfer to correctional facilities within the Division of Operations;
2. Assign parole violators, escapees and inter-state compact transferees;
3. Reassign inmates referred back to the I.I.C.C. by an Institutional Classification Committee (I.C.C.) for administrative transfer;
4. Confirm assignment of State sentenced inmates directly to the adult county correctional facilities under contractual agreement to house them;
5. Confirm all transfers to and from Administrative Segregation;
6. Recommend inmates who are considered appropriate for Protective Custody (see N.J.A.C. 10A:5);
7. Review emergency transfers (see N.J.A.C. 10A:5); and
8. Review any reduce custody overrides of inmates by the I.C.C.

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (b).

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (a), substituted "correctional facility, of male inmates" for "facility, of adult male inmates" and "custody of the Commissioner, Department of Corrections" for "Garden State Reception and Youth Correctional Facility by the Courts"; rewrote (b); in (c)1, substituted "Division of Operations" for "Prison Complex"; in (c)5, substituted "Confirm all transfers to or from" for "Review assignments to Vroom" and deleted an N.J.A.C. reference; in (c)7, deleted reference to transfers to Vroom Readjustment Unit; rewrote (c)8; and deleted (d), relating to assignment of female inmates.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Rewrote (a); in (c), inserted "adult" preceding "county" and substituted "correctional facilities" for "jails" in 4 and deleted "Institutional Classification Committee" preceding "I.C.C." in 8.

10A:9-6.2 Composition of the Inter-Institutional Classification Committee (I.I.C.C.)

(a) An Administrator or designee shall serve as Chairperson of the I.I.C.C.

(b) Two Associate Administrators or Assistant Superintendents appointed by the Director, Division of Operations, shall serve as members of the I.I.C.C. on a quarterly basis.

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

Institutional name change.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (a).

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (a), changed official serving as Chair and deleted provision specifying other members of the I.I.C.C.; and rewrote (b).
Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Rewrote (a); in (b), inserted "Associate Administrators or" following "two".

10A:9-6.3 Criteria for assignment of inmates

(a) Decisions regarding the degree of custody required and the correctional facility assignment for inmates shall be made by the I.I.C.C. while the inmate is in the initial classification process. These decisions shall be based on:

1. Length of sentence;
2. Type of offense;
3. Age of inmate;
4. Previous history;
5. Review of pertinent presentence investigation report documents;
6. The objective classification score;
7. The security level that matches the inmate's scored custody status; and
8. The Department of Corrections housing security level designation assigned to each correctional facility.

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised text.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Inserted (a)6 through (a)8; and deleted (b) through (k), providing criteria for assignment to specified correctional facilities.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), rewrote the introductory paragraph.

10A:9-6.4 Transfers

(a) Upon referral from an Institutional Classification Committee (I.C.C.), the Inter-Institutional Classification Committee (I.I.C.C.) shall make decisions on inmate requests for transfer to another correctional facility.

(b) The I.I.C.C. shall confirm all transfers of State sentenced inmates to adult county correctional facilities under contract to house them.

(c) The I.I.C.C. shall make decisions on referrals from an I.C.C. in cases where an inmate's correctional facility adjustment and/or custody status shall indicate that a transfer to another correctional facility is appropriate.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (a), deleted "within the Prison Complex" following "another correctional facility"; and in (b), deleted "from the Prison and/or Youth Complex" following "sentenced inmates".

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (b), inserted "adult" preceding "county" and substituted "correctional facilities" for "jails".

10A:9-6.5 Emergency transfers

(a) Administrators may effect the transfer of inmates within the same complex prior to review by the Inter Institutional Classification Committee (I.I.C.C.) only for reasons of emergency. (See N.J.A.C. 10A:4-9.21 and 9.22.)

(b) If, in the opinion of the Administrator of the correctional facility in which the inmate is housed, an immediate transfer is necessary, the Administrator shall notify the Assistant Commissioner or Director, Division of Operations of the proposed transfer. With the verbal approval either of the Assistant Commissioner or designee or the Director, the transfer shall be made as soon as possible.

(c) Form 852-I AUTHORIZATION FOR EMERGENCY TRANSFER shall be utilized for disciplinary or administrative transfers of an emergency nature. Two copies of Form 852-I shall be forwarded to the individual from whom verbal approval was secured within three working days of the verbal approval.

(d) In determining whether an emergency transfer is necessary, the Administrator shall consider the following factors, but is not limited to these factors:

1. The safety and welfare of the inmate;
2. The safety of other inmates and staff; and
3. The safe, orderly and secure operation of the correctional facility.

(e) All emergency transfers shall be evaluated on the Reclassification Instrument at the receiving facility as soon as possible and reviewed by the I.I.C.C. at its next regularly scheduled meeting.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (a), amended N.J.A.C. reference; and in (b), amended references to relevant officials.

Amended by R.2001 d.425, effective November 19, 2001.

See: 33 N.J.R. 2390(a), 33 N.J.R. 3947(a).

In (e), inserted "evaluated on the Reclassification Instrument at the receiving facility as soon as possible and" following "transfers shall be"; substituted references to Administrators for references to Superintendents throughout.

Amended by R.2002 d.65, effective March 4, 2002.

See: 33 N.J.R. 3857(a), 34 N.J.R. 1027(a).

In (b), inserted "or designee" following "either of the Assistant Commissioner" and deleted the third sentence; substituted "Administrator" for "Superintendent" throughout.

(e) The S.C.C. shall meet at least once a month on a date that is designated by the Chairperson at alternate sites so that no individual member is unduly inconvenienced.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (a), changed official serving as Chair; and in (b), deleted reference to the Deputy Director of the Division of Juvenile Services and substituted "the A.D.T.C." for "their correctional facilities".

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (a), deleted "Special Classification Committee" preceding "S.C.C." and in (a) through (c), substituted "Administrator, Associate Administrator" for "Superintendent"; in (d), substituted "An Administrator" for "A Superintendent" and "the Administrator" for "he or she".

SUBCHAPTER 7. SPECIAL CLASSIFICATION COMMITTEE (S.C.C.)

10A:9-7.1 Responsibilities of the Special Classification Committee (S.C.C.)

The Special Classification Committee (S.C.C.) shall be responsible for considering any inter-complex transfers.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Substituted "any inter-complex transfers" for list of specified transfers.

10A:9-7.2 Composition of the Special Classification Committee (S.C.C.)

(a) A Director of the Division of Operations shall serve as permanent Chairperson of the S.C.C. In addition, the S.C.C. shall be made up of a staff member from the Commissioner's Office and an Administrator, Associate Administrator or Assistant Superintendent from the Prison and Youth Complexes.

(b) The Administrator, Associate Administrator or the Assistant Superintendent of the Adult Diagnostic and Treatment Center (A.D.T.C.) shall participate as a member when transfer cases involving the A.D.T.C. are considered by the S.C.C.

(c) The Administrators, Associate Administrators or Assistant Superintendents who represent the Prison and Youth Correctional Complexes on the S.C.C. shall alternate annually with other Administrators, Associate Administrators or Assistant Superintendents of their respective Complexes so that their terms of service shall be no longer than one year at a time.

(d) An Administrator may designate a substitute member from a level not lower than Assistant Superintendent to represent his or her correctional facility at a S.C.C. meeting in the event the Administrator is unable to attend.

10A:9-7.3 Procedure for initiating transfer requests

(a) Requests for transfer to another Complex within the Department of Corrections may be initiated by the inmate or by the Administrator of the correctional facility in which the inmate is confined.

(b) Requests for transfer also may be initiated by the Commissioner or designee or the Assistant Commissioner of the Division of Operations.

(c) All requests for transfer and the reason(s) therefor shall be submitted, in writing, to the appropriate Institutional Classification Committee (I.C.C.). No request shall be considered without an accompanying statement of reasons.

(d) Requests for transfer received from attorneys or other third parties on behalf of an inmate shall not be considered. All third party individuals making such requests shall be advised that the inmate must initiate the request. However, third parties shall be advised that they may submit written comments to the appropriate I.C.C. in conjunction with an inmate request, all of which shall be considered by the I.C.C. and the Special Classification Committee (S.C.C.) when they review the inmate's request.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (b), changed officials who may initiate requests for transfer.

Amended by R.2002 d.65, effective March 4, 2002.

See: 33 N.J.R. 3857(a), 34 N.J.R. 1027(a).

In (a), substituted "Administrator" for "Superintendent"; in (b), substituted "or designee" for "Chief of Staff".

10A:9-7.4 Procedure for reviewing nonemergency transfer requests

(a) All requests for nonemergency transfers shall be submitted first to the Institutional Classification Committee (I.C.C.) at the correctional facility where the inmate is housed.

(b) When the request is initiated by the Administrator or any person other than the inmate authorized by N.J.A.C. 10A:9-7.3, the I.C.C. shall send a written notice to the inmate advising that a transfer request has been made and that the request will be considered at the next regularly

scheduled I.C.C. meeting. The I.C.C. shall also advise the inmate that he or she may submit written comments to the I.C.C. regarding the proposed transfer.

(c) The I.C.C. may direct that the inmate appear at the I.C.C. meeting if the Committee determines that an appearance is necessary.

(d) After considering all information which the I.C.C. shall deem relevant, the Committee shall render a decision to recommend or deny the transfer request. A notice of decision and a statement of reasons therefore shall be sent to the inmate and to the Administrator.

(e) If the I.C.C. recommends approval of the transfer request, the Administrator shall submit the recommendation to the Special Classification Committee (S.C.C.) with a full set of classification materials and any other information upon which the recommendation was made. The Administrator shall also submit a letter to the Chairperson of the S.C.C. which shall state whether the Administrator supports the I.C.C. recommendation and the reasons therefor.

(f) The S.C.C. shall consider all information submitted at the next regularly scheduled S.C.C. meeting and shall determine whether the requested transfer shall be approved.

1. The inmate shall not appear at the S.C.C. meeting.
2. The S.C.C. shall determine the appropriate correctional facility to which the inmate shall be assigned if the transfer is approved.

(g) The S.C.C. shall send written notification of the S.C.C. decision and the reasons therefor to:

1. The Administrator;
2. The authorized person who made the request; and
3. The I.C.C.

(h) The I.C.C. shall give written notice of the final decision to the inmate.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

Rewrote the section.

10A:9-7.5 Procedure for reviewing emergency transfer requests

(a) Whenever, in the opinion of the Administrator of the correctional facility in which the inmate is housed, an immediate transfer is necessary, the Administrator shall notify the Assistant Commissioner or Director, Division of Operations.

(b) With the verbal approval either of the Assistant Commissioner or designee, or the Director, the transfer shall be made as soon as possible.

(c) Form 852—I Authorization for Emergency Transfer shall be utilized for disciplinary or administrative transfers of an emergency nature. Two copies of Form 852—I shall be forwarded to the individual from whom verbal approval was secured within three business days of the verbal approval.

(d) In determining whether an emergency transfer is necessary, the Administrator shall consider the following factors, but is not limited to these factors:

1. The safety and welfare of the inmate;
2. The safety of other inmates and staff; and
3. The safe, orderly and secure operation of the correctional facility.

(e) The Administrator shall refer the emergency transfer of the inmate to the Institutional Classification Committee (I.C.C.) for consideration at the next regularly scheduled I.C.C. meeting. The I.C.C. shall make its review and recommendation and shall then refer the transfer to the Special Classification Committee (S.C.C.).

(f) When the S.C.C. confirms or fails to confirm the transfer, it shall notify in writing the following:

1. The inmate;
2. The Administrator; and
3. The I.C.C.

(g) A copy of the written notice shall be placed in the inmate's file.

(h) If the S.C.C. fails to confirm the transfer, the correctional facility to which the inmate was transferred shall make arrangements to return the inmate to his or her previous correctional facility as soon as possible.

Amended by R.1997 d.122, effective March 17, 1997.

See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

In (a) and (b), changed officials to be notified of need of transferred and who may approve transfers.

Amended by R.2002 d.65, effective March 4, 2002.

See: 33 N.J.R. 3857(a), 34 N.J.R. 1027(a).

In (b), inserted "or designee" following "Commissioner" and deleted the second sentence; substituted "Administrator" for "Superintendent" throughout.

Amended by R.2002 d.190, effective June 17, 2002.

See: 34 N.J.R. 1082(a), 34 N.J.R. 2030(a).

In (c), substituted "business" for "working" following "three"; in (e), substituted "the" for "its" and inserted "I.C.C." following "scheduled".

10A:9-7.6 Criteria for reviewing transfer requests

(a) In reviewing requests for transfer or reassignment to a correctional facility in another Complex, the Institutional Classification Committee (I.C.C.) and the Special Classification Committee (S.C.C.) shall consider all relevant factors including, but not limited to:

1. Disciplinary reports;