

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

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

Substituted detention for lockup, in (d) substituted 10A:16-13 for 10A:11, in (e) added reference to Form 251-I, and provided for written fact finding after due process hearing.

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

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

In (a), (f) and (g), inserted "calendar-"; in (g), substituted "decision of the Disciplinary Hearing Officer/Adjustment Committee" for "Disciplinary Hearing Officer's/Adjustment Committee's decision"; in (h), inserted "calendar"; and in (j), substituted "custody staff supervisor" for "shift".

10A:4-6.4 Appeal procedure

(a) At the time the inmate is adjudicated a chronic violator, the inmate shall be notified of his or her right to appeal the decision of the Disciplinary Hearing Officer to the Assistant Commissioner, Division of Operations, Department of Corrections. The appeal may be filed at any time during the inmate's continued confinement in detention, except that appellate review shall not occur more than twice per month.

(b) Prior to rendering a decision on the appeal, the Assistant Commissioner, Division of Operations, shall confer with the Administrator in charge of the Administrative Close Supervision Unit (ACSU) concerning the inmate's conduct. Alternative means for control and treatment shall be explored and utilized, if available and feasible. The inmate shall be notified of the decision of the Assistant Commissioner, Division of Operations, and the reasons thereof within five business days.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1989 d.136 effective March 20, 1989.

See: 21 N.J.R. 10(b), 21 N.J.R. 766(a).

References to Assistant Superintendents at the Administrative Close Supervision Unit (ACSU) and the Edna Mahan Correctional Facility for Women, added.

Amended by R.1990 d.34, effective January 16, 1990.

See: 21 N.J.R. 3240(a), 22 N.J.R. 232(a).

In (b): added "Division of Adult Institutions."

Replaced references to "VRU Director, the Assistant Superintendent in charge of ACSU, or the Edna Mahan ... Superintendent" with "administrator in charge of the Administrative Close Supervision Unit (ACSU)."

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.2006 d.398, effective November 20, 2006.

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

In (b), substituted "business" for "working".

SUBCHAPTER 7. ON-THE-SPOT CORRECTION

Subchapter Historical Note

Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking. See: 29 N.J.R. 1410(a), 29 N.J.R. 2187(b).

10A:4-7.1 On-the-spot disciplinary report/adjudication

(a) When a violation of a prohibited act that is considered minor has occurred, the staff member witnessing the violation

shall prepare Part I of Form 253-I On-The-Spot Disciplinary Report/Adjudication and distribute copies as follows:

1. One copy of the report shall be served upon the inmate; and

2. Two copies shall be forwarded immediately to the custody staff supervisor.

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

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

In the introductory paragraph of (a), substituted "and distribute copies as follows:" for "in triplicate."; in (a)1, deleted comma from end; and in (a)2, substituted "custody staff" for "shift".

10A:4-7.2 Conference/appeal

(a) The custody staff supervisor shall hold a conference within 24 hours of receipt of the On-The-Spot Disciplinary Report/Adjudication. The inmate shall also be afforded the right to appear at the conference with the custody staff supervisor at which time the inmate may review and appeal the disciplinary report, discuss the violation and the inmate may present arguments regarding disciplinary action and challenge the proposed sanction.

(b) An inmate may waive the right to attend his or her conference or the inmate may forfeit that right if the inmate's behavior justifies his or her removal from the conference. In either case, the reasons for the inmate's absence shall be documented on Form 253-I.

(c) The custody staff supervisor shall indicate on Part 2 of Form 253-I On-The-Spot Disciplinary Report/Adjudication whether the conference was held and enter on the form the other data pertaining to the results of the conference.

(d) At the conclusion of the conference, the inmate shall receive a completed copy of Form 253-I On-The-Spot Disciplinary Report/Adjudication. Should the inmate be found guilty, the remaining copy of Form 253-I shall be submitted to the Director of Custody Operations who shall determine where Form 253-I shall be maintained.

(e) On-the-spot disciplinary action is considered minor in nature and as such the right afforded to the inmate to appear at the conference shall be the final appeal for a finding of guilt to an on-the-spot disciplinary adjudication.

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) inserted "on-the-spot".

Amended by R.1997 d.432, effective October 6, 1997.

See: 29 N.J.R. 3408(a), 29 N.J.R. 4311(b).

In (d), substituted "submitted to the Director ... be maintained" for "submitted for placement into the inmate's classification folder" and deleted provision relating to not guilty determinations.

Petition for Rulemaking.

See: 36 N.J.R. 2957(a).

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

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

In (a), substituted "custody staff" for "shift" twice and "the inmate may present arguments regarding disciplinary action and" for "argue that the inmate should not be disciplined, or"; and in (c), substituted "custody staff" for "shift".

10A:4-7.3 Sanctions

(a) The following are authorized sanctions for on-the-spot corrections:

1. Verbal reprimand;
2. Loss of recreation privileges not to exceed five calendar days;
3. Up to four hours of extra work duty;
4. Up to four hours confinement to the room or housing area;
5. Loss of radio or television privileges for a period of no more than five days; and/or
6. Confiscation.

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

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

Added "confiscation" as a sanction for ON-THE-SPOT CORRECTIONS.

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

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

In (a)2, substituted "not to exceed" for "for a period of no more than" and inserted "calendar".

10A:4-7.4 Imposition of sanction

(a) If the custody staff supervisor concurs with the Form 253-I, On-The-Spot Disciplinary Report/Adjudication and proposed sanction, the proposed sanction shall be imposed within 24 hours of the conference. If no conference is requested, the sanction shall be imposed within 24 hours of the review by the custody staff supervisor.

(b) The custody staff supervisor shall have the authority to change the proposed sanction to another on-the-spot sanction.

(c) If the custody staff supervisor concludes that a more serious sanction is necessary, the custody staff supervisor may refer the on-the-spot correction to the Disciplinary Hearing Officer or Adjustment Committee and/or increase the on-the-spot correction in accordance with N.J.A.C. 10A:4-7.6.

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) inserted "on-the-spot" and added (b) and (c).

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

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

Substituted "custody staff" for "shift" throughout; in (a), inserted "Form 253-I"; and in (c), inserted "the on-the-spot correction to the Disciplinary Hearing Officer or Adjustment Committee".

Petition for Rulemaking.

See: 39 N.J.R. 3566(a).

10A:4-7.5 Record of sanction

(a) Information regarding on-the-spot guilty infractions shall not be entered onto the progress notes or be included in the reports presented to the New Jersey State Parole Board.

(b) Records of the on-the-spot sanctions (Form 253-I) shall be retained separately from the inmate's classification folder and in accordance with the internal management procedures of the correctional facility.

Amended by R.1997 d.432, effective October 6, 1997.

See: 29 N.J.R. 3408(a), 29 N.J.R. 4311(b).

Substantially amended section.

10A:4-7.6 Referral and/or increase of an on-the-spot correction infraction

(a) Should the custody staff supervisor conclude that a more serious sanction may be appropriate, the infraction shall be referred to the Disciplinary Hearing Officer or Adjustment Committee for a disciplinary hearing and disposition.

(b) A report shall be filed on Form 259, Disciplinary Report containing all the required information. Copies of all relevant documents shall then be forwarded to the Disciplinary Hearing Officer or Adjustment Committee Chairperson with a statement of reasons for the referral and any recommendations.

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

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

Deleted references to major violations.

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

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

In (a), substituted "custody staff" for "shift".

SUBCHAPTER 8. ADJUSTMENT COMMITTEE OR DISCIPLINARY HEARING OFFICER**10A:4-8.1 Adjustment Committee or Disciplinary Hearing Officer**

The disciplinary hearing within a correctional facility shall be conducted by either a Disciplinary Hearing Officer designated by the Commissioner or a Committee of three staff members designated by the Administrator.

10A:4-8.2 Designation of an Adjustment Committee

(a) The Administrator shall have the authority to designate an Adjustment Committee only at those correctional facilities where the Commissioner has not designated a Disciplinary Hearing Officer to perform such function, or in extraordinary circumstances when a Disciplinary Hearing Officer is not available.

(b) The Administrator may appoint persons to serve permanently, or may rotate members, or appoint one or more members to serve permanently and rotate other members.

(c) The Administrator shall designate one of the Committee members to serve as Chairperson. The Chairperson shall be the presiding officer and shall have the responsibility for the proper operation of the Committee.

10A:4-8.3 Composition of the Adjustment Committee

(a) The Adjustment Committee shall be composed of at least three persons which shall include: