

(e) The inmate shall receive at least 24 hours advance written notice on Form 251-I CHRONIC VIOLATOR NOTICE that the inmate is under consideration for designation as a chronic violator and that the inmate may have the assistance of an inmate paralegal at the scheduled hearing (See N.J.A.C. 10A:4-9, Disciplinary Procedures and Form 251-I). The notice shall include a copy of the disciplinary charges which form the basis for this action.

(f) The hearing shall be held in accordance with N.J.A.C. 10A:4-9 and may be held before the expiration of the inmate's 30 day term.

(g) If after review of all reports and testimony, the Disciplinary Hearing Officer Adjustment Committee concludes that the inmate cannot safely be released from detention at the expiration of the inmate's 30 day term, the inmate shall be designated a chronic violator. The Disciplinary Hearing Officer's/Adjustment Committee's decision shall be referred to the appropriate Institution Classification Committee (I.C.C.) for review and approval. The inmate shall remain in Disciplinary Detention until, at a subsequent hearing, the Disciplinary Hearing Officer determines that the inmate has demonstrated that the inmate will control his or her behavior and will refrain from repetitive acts of assault or destruction of property.

(h) A due process hearing shall be held every 15 days to review the inmate's conduct and adherence to correctional facility regulations. The Disciplinary Hearing Officer shall review all disciplinary reports and shall ascertain from the reports, investigations, psychiatric evaluation and testimony where deemed necessary, whether the inmate's conduct is sufficiently under control to permit the inmate's safe release from detention.

(i) After the due process hearing has been completed, a written statement of the fact-findings (Form 251-II) shall be given to the inmate by the Disciplinary Hearing Officer. A copy of the due process hearing shall be kept in the Disciplinary Hearing Officers' records and in the inmate's classification folder.

(j) During the inmate's confinement as a chronic offender, a social worker and the shift or unit supervisor shall visit the inmate daily to monitor the inmate's needs and provide for programmatic involvement so far as is possible. The inmate shall be permitted to shower and participate in yard exercise as is consistent with correctional facility procedures, considering the safety of the person and the continued secure, orderly operation of the unit or correctional facility.

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 (a), (b) and (c): deleted references to Vroom Readjustment Unit Director, the Assistant Superintendent in charge of the Administrative Close Supervision Unit at East Jersey State Prison, and the Superintendent of the Edna Mahan Correctional Facility for Women. Replaced references with the "administrator in charge of the Administrative Close Supervision Unit."

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.

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 therefor within five working 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).

SUBCHAPTER 7. ON-THE-SPOT CORRECTION

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 the Form 253-I ON-THE-SPOT DISCIPLINARY REPORT/ADJUDICATION in triplicate.

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

2. Two copies shall be forwarded immediately to the shift supervisor.

10A:4-7.2 Conference

(a) The shift supervisor shall hold a conference within 24 hours of receipt of the on-the-spot disciplinary report. The inmate shall also be afforded the right to appear at the conference with the shift supervisor at which time the inmate may review the disciplinary report, discuss the violation and argue that the inmate should not be disciplined, or 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 his or her behavior justifies removal from the conference. In either case, the reasons for the inmate's absence shall be documented on Form 253-I.

(c) The shift 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 for placement into the inmate's classification folder. Not guilty determinations shall not be forwarded for inclusion into the inmate's classification folder.

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".

10A:4-7.3 Sanctions

(a) The following are authorized sanctions for ON-THE-SPOT CORRECTIONS:

1. Verbal reprimand;
2. Loss of recreation privileges for a period of no more than five 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.

10A:4-7.4 Imposition of sanction

(a) If the shift supervisor concurs with the on-the-spot disciplinary report 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 shift supervisor.

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

(c) If the shift supervisor concludes that a more serious sanction is necessary, the shift supervisor may refer 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).

10A:4-7.5 Record of sanction

(a) Form 253-I On-The-Spot Disciplinary Report/Adjudication shall be included in the inmate's classification folder only when an inmate has been found guilty of a minor disciplinary infraction. Information regarding a guilty infraction shall not be entered onto the progress notes or be included in the reports presented to the Parole Board.

(b) Should an inmate be found not guilty of a minor disciplinary infraction, Form 253-I shall be completed but shall not be incorporated into the inmate's classification folder. These records may be retained separately from the inmate's classification folder for accounting and statistical purposes only.

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

(a) Should the shift 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.

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 Superintendent.