

**TITLE 10A  
CORRECTIONS**

**CHAPTER 1**

**ADMINISTRATION, ORGANIZATION AND  
MANAGEMENT**

**Authority**

N.J.S.A. 2C:39-1, 30:1B-6, 30:1B-10, 30:4-123.47(c) and 52:27EE-26; the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq.; and the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§15601 et seq.

**Source and Effective Date**

R.2008 d.190, effective June 17, 2008.  
See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

**Chapter Expiration Date**

Chapter 1, Administration, Organization and Management, expires on June 17, 2013.

Subchapter 3, Disability Discrimination Grievance Procedure, is exempt from expiration pursuant to 28 C.F.R. Part 35.

**Chapter Historical Note**

Chapter 1, Administration, Organization and Management, was adopted as R.1987 d.282, effective July 6, 1987. See: 19 N.J.R. 620(a), 19 N.J.R. 1214(a).

Subchapter 2, General Provisions, was adopted as R.1988 d.240, effective June 6, 1988. See: 20 N.J.R. 493(a), 20 N.J.R. 1222(c).

Subchapters 3 through 10, (Reserved), and Subchapter 11, Personal Property of Inmates, were adopted as R.1988 d.306, effective July 5, 1988. See: 20 N.J.R. 494(a), 20 N.J.R. 1559(b).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, Organization and Management, was readopted as R.1992 d.269, effective June 1, 1992. See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Subchapter 3, Disability Discrimination Grievance Procedure, was adopted as R.1993 d.617, effective December 6, 1993. See: 25 N.J.R. 1326(b), 25 N.J.R. 5474(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Operation and Procedures of the Department of Corrections; Subchapter 2, General Procedures; Subchapters 4 through 9, (Reserved); Subchapter 10, Research; and Subchapter 11, Personal Property of Inmates, expired on June 1, 1997.

Subchapter 1, Operation and Procedures of the Department of Corrections; Subchapter 2, General Procedures; Subchapters 4 through 9, (Reserved); Subchapter 10, Research; and Subchapter 11, Personal Property of Inmates, were adopted as R.1997 d.527, effective December 15, 1997. See: 29 N.J.R. 4231(a), 29 N.J.R. 5296(a).

Chapter 1, Administration, Organization and Management, was readopted as R.2003 d.176, effective April 9, 2003. See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

Subchapter 4, Inmate Remedy System, was adopted as new rules by R.2008 d.171, effective June 16, 2008. See: 39 N.J.R. 2188(a), 40 N.J.R. 3718(d).

Chapter 1, Administration, Organization and Management, was readopted as R.2008 d.190, effective June 17, 2008. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. OPERATION, PROCEDURES AND RULEMAKING ACTIVITY OF THE DEPARTMENT OF CORRECTIONS

**10A:1-1.1 Functions of the agency**

(a) The Department of Corrections (D.O.C.), created by statute in 1976, is a principal Department in the Executive Branch of New Jersey State Government. The functions of the D.O.C. are to:

1. Protect the public and provide for the custody, care, discipline, training and treatment of persons committed to State correctional facilities;
2. Supervise and assist in the treatment and training of persons in local correctional and detention facilities, so that such persons may be prepared for release and reintegration into the community;
3. Cooperate with other law enforcement agencies of the State to encourage a more unified system of criminal justice.
4. Provide maximum security confinement for offenders whose demonstrated propensity to acts of violence requires that these offenders be separated from the community;
5. Develop alternatives to conventional incarceration for offenders who can be dealt with more effectively in less restrictive community based facilities and programs;
6. Provide an environment for incarcerated persons which encourages rehabilitation and reintegration into the community; and
7. Protect the incarcerated offender from victimization within the correctional facilities of the D.O.C.

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

In (a)1, deleted "or released on parole" following "committed to State correctional facilities".

**Case Notes**

Department of Corrections was authorized to discipline a prisoner, who tested positive for cocaine and opiates upon his return to a State prison after escaping from a halfway house, for violating the Department's regulation prohibiting the use of drugs; under N.J.S.A. 30:1B-3 and N.J.S.A. 30:4-91.3, the Commissioner of Corrections maintains authority over adult offenders committed to State correctional institutions, even at times when they are physically outside prison walls. *Ries v. Dep't of Corr.*, 396 N.J. Super. 235, 933 A.2d 638, 2007 N.J. Super. LEXIS 328 (App.Div. 2007).

**10A:1-1.2 Procedure to petition for rulemaking**

(a) Pursuant to N.J.S.A. 52:14B-4(f), an interested person may petition for the promulgation of a new rule, or amendment or repeal of any existing rule of the Department of Corrections. A petition shall:

1. Be in writing;
2. Be legible and intelligible; and
3. Be signed by the petitioner.

(b) Each petition shall contain the following information:

1. The full name and address of the petitioner;
2. Citation of the rule for which the petition is made, using N.J.A.C. references, where applicable;
3. A clear and concise statement summarizing the substance of the rule sought or change to be suggested that may include the text of the suggested new rule or amended rule;
4. A specific statement explaining why the suggestion is being offered and summary of reasons therefor; and
5. A citation of statutory authority under which the Department of Correction is authorized to act.

(c) The petition shall be sent to the Supervisor, Administrative Rules Unit, Office of the Commissioner, Department of Corrections, Cubberly Building, PO Box 863, Trenton, New Jersey 08625-0863.

(d) A document submitted as a petition for rulemaking shall be reviewed by the Commissioner or designee. The document shall be deemed to be a petition for rulemaking based upon, but not limited to, substantial compliance with (a) through (c) above and the following guidelines, as applicable to the suggested new rule, amended rule or repealed rule (see definition of an "administrative rule" at N.J.S.A. 52:14B-2(e)):

1. The Department has the legal authority to promulgate the suggested rule;
2. The suggested rule has general Departmental application or is intended to have wide, uniform coverage that encompasses a large segment of the regulated population (rather than to a particular circumstance related to a specific occurrence or incident, or to a personal situation, case or litigation proceeding);

3. The suggested rule has continuing effect and applies prospectively only;

4. The suggested rule implements or interprets a law or a general Departmental policy, or describes the function, procedure or practice requirements of a law or a general Departmental policy (rather than applying to an internal management procedure);

5. The suggested rule falls within the purview of the Department of Corrections and does not relate to an intra-agency or interagency statement or issue.

(e) When the Commissioner or designee deems the document submitted to be a petition for rulemaking that substantially complies with the provisions of this section, the Department of Corrections shall file for publication with the Office of Administrative Law a notice of receipt of petition for rulemaking in the New Jersey Register pursuant to N.J.A.C. 1:30-4.1(c). A document submitted as a petition for rulemaking that does not substantially comply with the provisions of this section shall not be deemed a petition that requires further agency action.

(f) No later than 60 calendar days following receipt of an accepted petition, the Department of Corrections shall mail to the petitioner and file for publication in the New Jersey Register, a notice of action on the petition that shall contain the information described by (b) above. The notice of action shall include either:

1. A statement denying the petition and including a written statement of the reason(s);

2. A notice granting the petition and including a statement that the Department shall initiate a rulemaking proceeding within 90 calendar days of granting the petition; or

3. A statement that the matter is being referred for further deliberations, the nature of which shall be specified and which shall be concluded within 90 calendar days of referring the matter for further deliberations.

(g) Upon conclusion of further deliberations, as established in (f)3 above, the Department shall mail to the petitioner and file for publication in the New Jersey Register another notice of action on the petition, which shall either deny the petition and include a statement of the reason(s), or grant the petition and include a statement that the Department shall initiate rulemaking proceedings within 90 calendar days of granting the petition.

Amended by R.1992 d.269, effective July 6, 1992.  
See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Revised (c)-(d).  
Administrative Correction in (d) and (e).  
See: 24 N.J.R. 4390(a).  
Administrative Change.  
See: 25 N.J.R. 4105(a).  
Amended by R.2001 d.220, effective July 2, 2001.  
See: 33 N.J.R. 1288(a), 33 N.J.R. 2290(a).

Rewrote (c); in (d), inserted “, or designee,” preceding “accepts the petition”; substituted references to (a), (b) and (c) for references to (a) and (b), and amended the N.J.A.C. reference; rewrote (e); added (f).

Administrative change.  
See: 36 N.J.R. 1779(a).

Amended by R.2008 d.190, effective July 21, 2008.  
See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

In the introductory paragraph of (a), substituted “Pursuant to N.J.S.A. 52:14B-4(f), an” for “An”, deleted “apply to” following “person may” and inserted “of a new rule, or” and “existing”; in (b)2, substituted “petition” for “proposal”; in (b)3, inserted “that may include the text of the suggested new rule or amended rule”; added new (d); recodified former (d) through (f) as (e) through (g); rewrote (e); in the introductory paragraph of (f), inserted “calendar” and a comma following “Register”, and substituted “that” for “which”; in (f)2 and (f)3, inserted “calendar”; and in (g), substituted “(f)3” for “(e)3” and “reason(s)” for “reasons(s)”, inserted a comma following the first occurrence of “petition” and inserted “calendar”.

### 10A:1-1.3 Public and inmate information requests

(a) Members of the public, other than inmates, may obtain general information from the Department of Corrections by writing to the Department of Corrections, Office of Public Information at PO Box 863, Trenton, New Jersey 08625-0863, by accessing the official Department of Corrections website at [www.state.nj.us/corrections](http://www.state.nj.us/corrections), or by making a telephone call to (609) 292-9340.

(b) Inmates requesting information or services may contact the Corrections Ombudsperson, Division of Citizen Relations, Department of the Public Advocate by mail at PO Box 855, Trenton, New Jersey 08625-0855 or by making a toll-free call within a correctional facility, using a pin number that is assigned by the Department of Corrections. This toll-free number is (555) 555-5555. A toll call can also be made to (609) 292-8020.

(c) Requests for government records pursuant to the Open Public Records Act at N.J.S.A. 47:1A-1 et seq. shall be handled in accordance with N.J.A.C. 10A:22.

(d) Pursuant to the Identity Theft Prevention Act at N.J.S.A. 56:11-44 et seq. and related definitions at N.J.S.A. 56:8-161; and in order to prevent identity theft, Departmental staff shall be responsible for safeguarding “personal information” as this term is defined in N.J.A.C. 10A:1-2.2 and for complying with related rules at N.J.A.C. 10A:22-1.5.

Amended by R.1993 d.635, effective December 6, 1993.

See: 25 N.J.R. 4552(a), 25 N.J.R. 5475(a).

Amended by R.2001 d.455, effective December 3, 2001.

See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

In (a), inserted “by assessing the official Department of Corrections website at [www.state.nj.us/corrections](http://www.state.nj.us/corrections),” following “08625-0863”.

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

In (a), substituted “accessing” for “assessing” preceding “the official Department of Corrections website”; added (c).

Amended by R.2007 d.64, effective February 20, 2007.

See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Added (d).

Amended by R.2008 d.190, effective July 21, 2008.

See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

Rewrote (b).

**10A:1-1.4 Reimbursement for costs of copying**

(a) Pursuant to N.J.S.A. 47:1A-5, correctional facilities and other administrative units within the Department of Corrections may charge the following fees for copying records deemed to be public:

\$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger.

(b) Government agencies are exempt from cost of copying of documents.

(c) The copying fees for documents or records other than records deemed to be public shall also be based on the fee schedule in (a) above.

(d) When or if fees for the copying of public records change in accordance with N.J.S.A. 47:1A-5, these changes shall be published as a notice of administrative change in the New Jersey Register.

New Rule, R.1993 d.635, effective December 6, 1993.

See: 25 N.J.R. 4552(a), 25 N.J.R. 5475(a).

Administrative change.

See: 37 N.J.R. 80(b).

Administrative change.

See: 42 N.J.R. 2806(b).

**10A:1-1.5 Rulemaking activity**

(a) Department of Corrections rules are promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

(b) The New Jersey Administrative Code (N.J.A.C.) is the official publication of the Office of Administrative Law and contains all effective rules adopted in accordance with the Administrative Procedure Act by agencies of the State of New Jersey. The rules of the Department of Corrections are established within N.J.A.C. Title 10A, Corrections.

(c) The public may make submissions or requests regarding the promulgation, amendment and repeal of any Departmental rules in accordance with N.J.A.C. 10A:1-1.2, Procedure to petition for rulemaking.

New Rule, R.2001 d.455, effective December 3, 2001.

See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

**10A:1-1.6 Notice of a proposed rule and opportunity to be heard**

(a) A notice of a proposed rule may consist of:

1. A proposed new rule;
2. A proposed amendment to modify, alter or revise an existing rule;
3. A proposed repeal of a rule; or
4. A proposed reoption of a rule.

(b) The Department of Corrections provides the following four types of publicity for a notice of a rule proposal:

1. Publication in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all Departmental rule proposals and adoptions;

2. Distribution of the notice or a statement of the substance of the proposed rulemaking activity to the news media maintaining a press office in the New Jersey State House Complex;

3. Posting of the notice or a statement of the substance of the proposed rulemaking activity on the official website of the New Jersey Department of Corrections at [www.state.nj.us/corrections](http://www.state.nj.us/corrections); and

4. Distribution of the notice or a statement of the substance of the proposed rulemaking activity mailed to persons or organizations likely to be affected by or interested in the intended action such as, but not limited to, New Jersey State Law Libraries, the New Jersey State Parole Board, the American Civil Liberties Union of New Jersey, the New Jersey Association of Corrections, Departmental administrative staff, the custody staff bargaining unit, inmate advocacy groups, correctional facility Inmate Liaison Committees, correctional facility law libraries, and individuals or entities who request (see N.J.A.C. 10A:1-1.3) to be advised of the Department's proposed rulemaking activities.

(c) Notice of a rule proposal shall include a designated public comment period and specific information regarding to whom comments may be submitted.

1. Comments must be submitted to the individual at the address designated within the notice of a rule proposal in order to be considered by the Department;

2. Comments submitted for a notice of a rule proposal must fall within the scope of the subject matter of the rule proposal. Comments that do not fall within the scope shall be summarized in the notice of adoption along with a statement that the comment does not fall within the scope of the subject matter of the notice of a rule proposal; and

3. Except for comments made orally at a public hearing, comments submitted regarding a notice of a rule proposal must be in writing, legible and intelligible in order to be considered by the Department.

(d) The Department may extend the designated public comment period:

1. When deemed necessary by the Department; or
2. For a period of 30 calendar days, when, within 30 calendar days of the publication of a proposal, sufficient public interest is demonstrated in an extension of the time for comment submissions. For purposes of this subsection, sufficient public interest for granting an extension of the

public comment period exists when 50 or more individuals have communicated a specific request for the extension of the comment period in writing to the Department of Corrections. This communication must be directed to the individual who has been designated to receive comments in the notice of a rule proposal.

(e) A public hearing on the proposed rulemaking activity shall be conducted by the Department when:

1. A request for a public hearing from a committee of the Legislature, or a governmental agency or subdivision, is made to the Department within 30 calendar days of the publication of the proposed rulemaking activity in the N.J.R.; or

2. Sufficient public interest is shown by the public within 30 calendar days of the publication of the proposed rulemaking activity in the N.J.R. For purposes of this subsection, sufficient public interest for conducting a public hearing exists when 100 or more individuals have communicated a specific request for a public hearing and the basis for such a request in writing to the Department. This communication must be directed to the individual who has been designated to receive comments in the notice of a rule proposal.

i. In the calculation of the number of comments received expressing the request for a public hearing, the Department shall not consider the following:

(1) Comments from incarcerated, legally committed or confined individuals who are not authorized to attend a public hearing;

(2) Comments that relate to specific recommended amendments in the rule that the Department has agreed to make;

(3) Comments that relate to amendments that the Department does not have the legal authority to make; or

(4) Comments that relate to amendments that are required by law.

New Rule, R.2001 d.455, effective December 3, 2001.

See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

Amended by R.2008 d.190, effective July 21, 2008.

See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

In (d)2, inserted "calendar" twice and substituted "a specific request" for "the need"; in (e)1, inserted "calendar"; in the introductory paragraph of (e)2, inserted "within 30 calendar days of the publication of the proposed rulemaking activity in the N.J.R." and substituted "a specific request" for "the need" and "request" for "need"; in the introductory paragraph of (e)2i, substituted "request" for "need"; and in (e)2i(1), inserted ", legally committed or confined" and "who are".

#### 10A:1-1.7 Calendar of Departmental rule activity

(a) A quarterly calendar of anticipated Departmental proposed rulemaking activities for the next six months may be available and published in the first New Jersey Register (N.J.R.) in the months of January, April, July and October.

1. When the Department of Corrections provides a 60 day comment period as indicated in the N.J.R. publication of a notice of a rule proposal, the calendar notice and N.J.R. publication of a calendar notice shall not be required.

2. When the Department of Corrections publishes a calendar in the N.J.R., access to the calendar may be obtained from:

i. The N.J.R. in issues from the months listed in (a) above;

ii. The official website of the Department of Corrections at [www.state.nj.us/corrections](http://www.state.nj.us/corrections); and

iii. By contacting the Department in accordance with N.J.A.C. 10A:1-1.3.

3. When the Department of Corrections publishes a calendar in the N.J.R., the calendar shall be:

i. Provided to the news media maintaining a press office in the New Jersey State House Complex; and

ii. Distributed to persons or groups likely to be affected by or interested in the calendar of anticipated Departmental proposed rulemaking activities such as, but not limited to, New Jersey State Law Libraries, the New Jersey State Parole Board, the American Civil Liberties Union of New Jersey, the New Jersey Association of Corrections, Departmental administrative staff, the custody staff bargaining unit, inmate advocacy groups, correctional facility Inmate Liaison Committees, correctional facility law libraries, and individuals or entities who have requested (see N.J.A.C. 10A:1-1.3) to be advised of the calendar of anticipated Departmental proposed rulemaking activities.

4. The reimbursement for costs of copying the anticipated Department of Corrections calendar of proposed rulemaking activities for the next six months when published in an issue of the N.J.R. shall be in accordance with N.J.A.C. 10A:1-1.4, Reimbursement for costs of copying.

New Rule, R.2001 d.455, effective December 3, 2001.

See: 33 N.J.R. 2941(a), 33 N.J.R. 4106(a).

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

In the introductory paragraph of (a), inserted "Register".

## SUBCHAPTER 2. GENERAL PROVISIONS

### 10A:1-2.1 Scope

(a) Unless otherwise stated, N.J.A.C. 10A:1 through 10A:30 shall be applicable to State correctional facilities under the jurisdiction of the Department of Corrections.

(b) Unless otherwise stated, N.J.A.C. 10A:31 through 10A:34 shall be applicable to municipal and county correctional facilities within the State of New Jersey.

(c) Pursuant to the Sexually Violent Predator Act (N.J.S.A. 30:4-27.24 et seq.), the Department of Corrections shall be responsible for the operation of any Special Treatment Unit designated for the custody, care, control and treatment of sexually violent predators; therefore, when deemed necessary by the Commissioner of the Department of Corrections or designee, operational, custodial, security and medical care rules set forth within N.J.A.C. 10A:1 through 10A:30 shall be applicable to Special Treatment Units. Unless otherwise stated, N.J.A.C. 10A:35 shall be applicable to Special Treatment Units under the jurisdiction of the Department of Corrections.

Amended by R.2010 d.057, effective April 19, 2010.  
See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).  
Added (c).

### 10A:1-2.2 Definitions

The following words and terms, when used in N.J.A.C. 10A:1 through 10A:30, shall have the following meanings unless the context clearly indicates otherwise:

“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.

“Administrator” means an administrator or a superintendent who serves as the chief executive officer of any State correctional facility within the New Jersey Department of Corrections.

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

“Adult county correctional facility” means any place, under the jurisdiction of a county, where adult persons convicted or accused of crimes are confined.

“Assistant Commissioner” means the chief executive officer of a Division within the Department of Corrections.

“Associate Administrator” means an assistant administrator or an assistant superintendent who is the ranking assistant to the Administrator of any State correctional facility within the New Jersey Department of Corrections.

“Asterisk offense” means a prohibited act preceded by a number and an asterisk that is considered the most serious and results in the most severe sanction(s).

“Body cavity search” means the visual inspection or manual search of a person’s anal or vaginal cavity.

“Business day(s)” means any single or consecutive days during which most businesses operate, Monday through Friday, excluding weekends or legal holidays.

“Calendar day(s)” means any single day or consecutive days, January 1 through December 31.

“Canine search” means a search conducted by a canine team consisting of a handler(s) and a dog(s) specially trained to discover and indicate to the handler(s) the presence of various substances, objects and/or materials.

“Central Communications Unit” means the centralized communication center within the Department of Corrections which coordinates certain functions of the Department of Corrections on a 24 hours per day, seven days per week basis.

“Central Control” means the unit which coordinates the security and communication functions within a correctional facility.

“Central Medical/Transportation Unit” means the centralized unit which provides transportation for inmates within the Department of Corrections.

“Central Reception and Assignment Facility (CRAF)” means the facility of the New Jersey Department of Corrections for inmate reception and correctional facility assignments.

“Chemical agent” means an aerosol spray which may be used to gain control of individuals who resist arrest or for the purpose of self-defense against an attack.

“Civil union” means the legally recognized union of two eligible individuals of the same sex established pursuant to N.J.S.A. 37:1-36. Parties to a civil union shall receive the same benefits and protections and be subject to the same responsibilities as spouses in a marriage.

“Civil union couple” means two persons who have established a civil union pursuant to N.J.S.A. 37:1-1 et seq., known as the Civil Union Act.

“Close Custody Unit” means an area within a correctional facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons.

“Close observation” means intermittent monitoring of an inmate either in-person or by video monitor at 15 minute intervals.

“Commissioner” means the Commissioner of the New Jersey Department of Corrections.

“Community Corrections Classification Committee (C-4)” means the Committee responsible for the assignment of a custody status and the placement of an inmate who has been returned from a residential community program to a correctional facility.

“Constant observation” means:

1. Uninterrupted surveillance of one inmate who is on suicide watch that shall be conducted in person or by video monitor when the video monitor provides continuous unobstructed vigilance of the inmate by one staff member; or

2. One minute interval surveillance of two inmates in adjacent cells by one staff member that shall be conducted in person or uninterrupted surveillance by one staff member of up to four inmates by video monitor when the video

monitor provides continuous unobstructed vigilance of the inmates.

“Contact visit” means a visit between an inmate and a visitor where there is no barrier (such as a window or wall) between the inmate and visitor.

“Contraband” means:

1. Any item, article or material found in the possession of, or under the control of, an inmate which is not authorized for retention or receipt;

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Added definition "Prehearing Protective Custody".

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

In definition "Canine search", inserted ", objects".

#### Case Notes

Regulation which classifies inmates who do not have any funds in their account and who cannot work, but are able to receive funds from outside sources as "nonindigent," thus requiring them to use funds from outside sources for payment of legal photocopying and medical care, did not violate equal protection clause. *Robinson v. Fauver*, D.N.J.1996, 932 F.Supp. 639.

In an inmate's appeal of disciplinary action arising from a fight he was involved in, the appellate court rejected the Department of Correction's blanket policy of keeping confidential all security camera videotapes in order to preclude inmates from learning camera angles, locations, or blind spots, and directed the Department to develop a record on remand regarding the need for confidentiality of the particular videotape. *Robles v. New Jersey Dept. of Corrections*, 388 N.J. Super. 516, 909 A.2d 755, 2006 N.J. Super. LEXIS 295 (App.Div. 2006).

#### 10A:1-2.3 Chief Executive Officer

Pursuant to N.J.S.A. 30:1B-1 et seq., the Chief Executive Officer of the Department of Corrections is the Commissioner of Corrections.

#### 10A:1-2.4 Rulemaking, policy and procedure making and exemption authority

(a) The Commissioner, pursuant to N.J.S.A. 30:1B-1 et seq., is authorized to formulate, adopt, issue, promulgate, relax and exempt rules and regulations for the administration of correctional facilities, community programs and operational units within the Department of Corrections.

(b) The Commissioner is authorized to determine all matters of policy and procedure in order to regulate the operational issues associated with the administration of correctional facilities, community programs and operational units and to formulate, modify, relax, and exempt such policies, procedures and regulations when necessary, so that same can function safely and effectively within the Department of Corrections.

(c) The Commissioner may exempt a correctional facility, community program or operational unit from adherence to a rule or may relax certain requirements of a rule for good cause shown in a particular situation or in instances when strict compliance with a rule or all of its requirements would result in:

1. An undue hardship, unfairness or injustice;
2. An inability to meet a therapeutic, rehabilitative or medical need;
3. A security risk or imminent peril to the overall management, safe or orderly operation of a correctional facility, community program or operational unit;

4. An inability to utilize existing technology or apply technological innovations in order to meet penological objectives; or

5. An inability to reasonably meet a time period requirement.

Amended by R.1992 d.269, effective July 6, 1992.

See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Revised (c).

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

Rewrote (c).

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

Section was "Rulemaking and exemption authority". In (a), substituted a comma for "and" preceding "promulgate" and inserted ", relax and exempt"; rewrote (b); in the introductory paragraph of (c), inserted "may relax" and "for good cause shown in a particular situation or"; in (c)1, inserted ", unfairness or injustice"; in (c)2, deleted "or" at the end; in (c)3, inserted "or imminent peril" and substituted a semicolon for a period at the end; and added (c)4 and (c)5.

#### 10A:1-2.5 Expiration of rule exemptions

(a) All rule exemptions shall expire two years from the date of approval by the Commissioner.

(b) A rule exemption may be terminated prior to its expiration date when:

1. The special circumstances making the rule exemption necessary no longer exist; or
2. The Commissioner no longer approves the rule exemption.

(c) A rule exemption may be extended beyond its expiration date when:

1. The Administrator or Unit Supervisor reapplies for the rule exemption; and
2. The approval of the Commissioner is given for an extension of the rule exemption.

(d) A correctional facility, community program or operational unit shall return to compliance with the New Jersey Administrative Code when rule exemptions terminate or expire.

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

In (c)1, substituted "Administrator" for "Superintendent".

#### 10A:1-2.6 Effective dates of adopted and exempted rules

(a) Unless otherwise noted in the New Jersey Register, an adopted rule is effective on the date of its publication in the New Jersey Register.

(b) The effective date of a rule exemption shall be the date of the Commissioner's signature on Form 911 Request for Rule Exemption.

**10A:1-2.7 Procedure for requesting rule exemptions**

(a) Requests for rule exemptions may be submitted by staff or committees to the Administrator for review.

(b) Requests for rule exemptions may be submitted by inmates or inmate groups to the Institutional Classification Committee (I.C.C.) for review. The I.C.C. shall review and submit inmate requests for rule exemptions to the Administrator along with recommendations for approval or disapproval. Such requests for rule exemptions must:

1. Be in writing;
2. Be legible and intelligible;
3. Contain the full name and address of the inmate or inmate group;
4. Contain the N.J.A.C. 10A citation of the rule for which the exemption is made; and
5. Include a clear and concise statement summarizing the substance of the rule exemption, why the suggestion is being requested and a summary of reasons for the exemption.

(c) Requests for rule exemptions may be submitted by staff members, individually or as a group, utilizing and submitting Form 911 to the community program supervisor or operational unit supervisor for review.

(d) The Administrator, community program supervisor or operational unit supervisor shall review and determine, based on the criteria in N.J.A.C. 10A:1-2.4(c), whether to submit requests for rule exemptions to the appropriate Assistant Commissioner and the Commissioner for consideration.

(e) If the Administrator, community program supervisor or operational unit supervisor approves a request for rule exemption, the designated sections of Form 911 Request for Rule Exemption shall be completed in duplicate, signed and submitted to the appropriate Assistant Commissioner.

(f) The Assistant Commissioner shall review Form 911 Request for Rule Exemption and determine whether to approve or disapprove the request, based on the criteria in N.J.A.C. 10A:1-2.4(c). If the Assistant Commissioner approves the request, the designated section of Form 911 shall be signed, dated and submitted to the Commissioner for review. If the Assistant Commissioner disapproves the request, the designated section of Form 911 shall be signed, dated and returned to the correctional facility Administrator, the community program supervisor or operational unit supervisor.

(g) The Commissioner shall review Form 911 Request for Rule Exemption, submitted by an Assistant Commissioner and determine whether to authorize a rule exemption, based on the criteria in N.J.A.C. 10A:1-2.4(c). The Commissioner shall approve or disapprove a rule exemption by signing and

dating the designated section on Form 911 and returning it to the Assistant Commissioner.

(h) The Assistant Commissioner shall be responsible for notifying the Administrator, the community program supervisor or operational unit supervisor of the Commissioner's approval or disapproval of requests for rule exemptions.

Amended by R.1992 d.269, effective July 6, 1992.

See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Revised (d)-(h).

Administrative Correction in (e) and (f).

See: 24 N.J.R. 4390(a).

Administrative Change.

See: 25 N.J.R. 4105(a).

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

Substituted "Administrator" for "Superintendent" throughout.

Amended by R.2010 d.057, effective April 19, 2010.

See: 41 N.J.R. 4395(a), 42 N.J.R. 792(b).

In the introductory paragraph of (b), inserted the last sentence; added (b)1 through (b)5; and in (c), inserted "utilizing and submitting Form 911".

**10A:1-2.8 Forms**

(a) The following form related to Administration, Organization and Management is available by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of this form by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 911 Request for Rule Exemption.

(b) The following form related to inventory of inmate personal property is printed by the Bureau of State Use Industries—DEPTCOR and each facility shall purchase a supply of this form by contacting DEPTCOR:

1. IIS-1M Inmate Inventory Sheet.

(c) The following form related to Disability Discrimination Grievance is available at N.J.A.C. 10A:1-3.7 or can be obtained by contacting the ADA Coordinator, New Jersey Department of Corrections:

1. Americans with Disabilities Act Grievance Form 100.

Administrative change.

See: 35 N.J.R. 1137(a).

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

In (c), substituted "is available at N.J.A.C. 10A:1-3.7 or can" for "shall" following "Disability Discrimination Grievance" in the introductory paragraph.

Administrative change.

See: 36 N.J.R. 1779(a).

Amended by R.2006 d.419, effective December 4, 2006.

See: 38 N.J.R. 3226(a), 38 N.J.R. 5161(a).

In the introductory paragraph of (a), deleted "shall be reproduced from originals that" preceding "are available" and inserted "by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms".