

**CHAPTER 9
CLASSIFICATION PROCESS**

Authority

N.J.S.A. 30:1B-6, 30:1B-10, 52:17B-169, 2C:35-4, 2C:35-5, 2C:15-2 and the settlement in *Groves v. Fauver*, Dkt. No. 91-796 (D.N.J. March 15, 1995).

Source and Effective Date

R.1997 d.122, effective February 14, 1997.
See: 29 N.J.R. 80(b), 29 N.J.R. 880(a).

Executive Order No. 66(1978) Expiration Date

Chapter 9, Classification Process, expires on February 14, 2002.

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 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: Source and Effective Date. 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Classification Committee (J.I.C.C.); and Subchapter 11, Juvenile Female Classification Committee (J.F.C.C.), were repealed.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, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. INTRODUCTION

- 10A:9-1.1 Purpose
- 10A:9-1.2 Scope
- 10A:9-1.3 Definitions
- 10A:9-1.4 Forms

SUBCHAPTER 2. RECEPTION CLASSIFICATION

- 10A:9-2.1 Reception activity

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

- 10A:9-3.1 Responsibilities of the Institutional Classification Committee (I.C.C.)
- 10A:9-3.2 Composition of the Institutional Classification Committee (I.C.C.)
- 10A:9-3.3 Institutional Classification Committee (I.C.C.) decision making criteria
- 10A:9-3.4 Initial classification
- 10A:9-3.5 Review dates
- 10A:9-3.6 Special reviews
- 10A:9-3.7 Discussions
- 10A:9-3.8 Work assignments
- 10A:9-3.9 Educational assignments
- 10A:9-3.10 Counseling assignments
- 10A:9-3.11 Reassignments
- 10A:9-3.12 Community release programs
- 10A:9-3.13 Transfers
- 10A:9-3.14 Written procedures

SUBCHAPTER 4. ELIGIBILITY CRITERIA FOR REDUCED CUSTODY CONSIDERATION

- 10A:9-4.1 Eligibility for reduced custody
- 10A:9-4.2 No right to reduced custody
- 10A:9-4.3 Custody levels
- 10A:9-4.4 Authority of Classification Committees
- 10A:9-4.5 Discretion of Institutional Classification Committees (I.C.C.); factors to be considered
- 10A:9-4.6 Criteria for consideration for gang minimum custody status and full minimum custody status
- 10A:9-4.7 Criteria for consideration for gang minimum custody status only
- 10A:9-4.8 Not eligible to be considered for reduced custody status
- 10A:9-4.9 Assignment of inmates to satellite units, except Jones Farm

SUBCHAPTER 5. COMMUTATION AND WORK TIME

- 10A:9-5.1 Authority
- 10A:9-5.2 Exceptions; time in custody; failure to work
- 10A:9-5.3 Forfeiture of commutation credits
- 10A:9-5.4 Forfeiture of commutation credits by parolees
- 10A:9-5.5 Restoration of forfeited commutation credits
- 10A:9-5.6 Work credits for inmates housed in county correctional facilities
- 10A:9-5.7 Reports of earned credits
- 10A:9-5.8 (Reserved)

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.)
- 10A:9-6.2 Composition of the Inter-Institutional Classification Committee (I.I.C.C.)
- 10A:9-6.3 Criteria for assignment of inmates
- 10A:9-6.4 Transfers
- 10A:9-6.5 Emergency transfers

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

- 10A:9-7.1 Responsibilities of the Special Classification Committee (S.C.C.)
- 10A:9-7.2 Composition of the Special Classification Committee (S.C.C.)
- 10A:9-7.3 Procedure for initiating transfer requests
- 10A:9-7.4 Procedure for reviewing nonemergency transfer requests
- 10A:9-7.5 Procedure for reviewing emergency transfer requests
- 10A:9-7.6 Criteria for reviewing transfer requests
- 10A:9-7.7 Procedures for transfers

SUBCHAPTER 8. SPECIAL CLASSIFICATION REVIEW BOARD

- 10A:9-8.1 Responsibilities
- 10A:9-8.2 Composition of the Special Classification Review Board (S.C.R.B.)
- 10A:9-8.3 Coordinator for the Special Classification Review Board (S.C.R.B.)
- 10A:9-8.4 Reviews of inmates housed at the Adult Diagnostic Treatment Center (A.D.T.C.)
- 10A:9-8.5 Review of inmates housed at other correctional facilities
- 10A:9-8.6 Decisions of the Special Classification Review Board (S.C.R.B.); in-person review
- 10A:9-8.7 Decisions of the S.C.R.B.; non in-person review
- 10A:9-8.8 Appeal of the Special Classification Review Board (S.C.R.B.) denial
- 10A:9-8.9 Referrals to the State Parole Board
- 10A:9-8.10 Parole records
- 10A:9-8.11 Notice of release
- 10A:9-8.12 Confidentiality

SUBCHAPTER 1. INTRODUCTION

10A:9-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish criteria for eligibility for reduced custody status;
2. Establish procedures regarding the award and forfeiture of commutation time and work credits;
3. Provide an orderly process for deciding the degree of custody and appropriate correctional facility for each inmate;
4. Provide an orderly process for considering transfers of inmates between correctional facilities;
5. Establish a mechanism for deciding whether to recommend parole for persons confined pursuant to N.J.S.A. 2C:47 and 2A:164; and
6. Establish rules to adequately 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.

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 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 persons who have been convicted pursuant to N.J.S.A. 2C:47 and 2A:164.

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

“Classification material” means documents in the classification folder on which information regarding an inmate is recorded such as psychological or psychiatric evaluations, rap sheets, disciplinary charges, program participation, presentence reports, medical records, etc.

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

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

“Detainer” means a warrant or formal authorization to hold an inmate for prosecution or detention by a Federal, State or local law enforcement agency or the U.S. Immigration Department. Detainers may include, but are not limited to:

1. Adjudicated criminal charges for which sentence has been imposed;
2. Criminal charges resulting from indictment, for which there is no final disposition (open charges);
3. Warrants for violation of parole or probation; and
4. Immigration detainers.

“Gap time credit” means the credit awarded by the sentencing court for the period of time between dates of sentence when a defendant, who has previously been sentenced to imprisonment, is subsequently sentenced to another term for an offense committed prior to the former sentence, other than an offense committed while in custody.

“Increased custody” means assignment of an inmate to a custody level that requires more supervision.

“Intensive Supervision Program” means the program which permits certain offenders sentenced to State correctional institutions to be sentenced by a Resentencing Panel of judges to an intermediate form of punishment between incarceration and probation.

“Jones Farm” means a community based satellite unit of the New Jersey State Prison, which houses inmates in full minimum custody status who meet the criteria for assignment to that facility.

“Objective classification” means the standardized evaluation and custody assignment score of an inmate based on the following criteria:

1. Severity of current offense;
2. Prior assaultive offense history;

3. Escape history;
4. History of institutional violence;
5. Balance of term to be served to expiration of sentence (initial only);
6. Alcohol/drug abuse (initial only);
7. Current detainer/open charges;
8. Prior felony convictions (initial only);
9. Education (initial only);
10. Employment (initial only);
11. Age;
12. Number of disciplinary reports (reclassification only);
13. Most severe disciplinary infraction received (reclassification only);
14. Program participation (reclassification only); and
15. Balance on parole eligibility date (reclassification only).

“Reduced custody” means assignment of an inmate to a custody level that requires less supervision.

Amended by R.1988 d.332, effective July 18, 1988.

See: 20 N.J.R. 879(b), 20 N.J.R. 1716(a).

Added “Intensive Supervision Program”.

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1989 d.299, effective June 5, 1989.

See: 21 N.J.R. 664(a), 21 N.J.R. 1516(c).

Definition of “Gap time credit” added.

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

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

Added “Custody status” and “Objective classification”; deleted “Commissioner”, “Division of Adult Institutions”, “Division of Juvenile Services”, “Indeterminate sentence”, “Prison complex”, “Prison sentence”, “Superintendent”, “Vroom Readjustment Unit”, and “Youth Complex”.

10A:9-1.4 Forms

(a) The following form related to classification shall be reproduced by each correctional facility from the original which is available by contacting the Standards Development Unit, New Jersey Department of Corrections.

1. 852-I Authorization for Emergency Transfer.

(b) The following forms related to the classification of inmates shall be reproduced by each correctional facility from the originals which are available by contacting the Bureau of Correctional Information and Classification Services (C.I.C.S.), Office of Policy and Planning.

1. CRAU-003 Agreement of Transfer;
2. CRAU-006 Initial Inmate Custody Classification Instrument; and

3. CRAU-007 Inmate Custody Reclassification Instrument.

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

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

Added (b).

SUBCHAPTER 2. RECEPTION CLASSIFICATION

10A:9-2.1 Reception activity

(a) Male offenders are admitted to the Garden State Reception and Youth Correctional Facility or the Adult Diagnostic and Treatment Center (A.D.T.C.) and female offenders are admitted to the Edna Mahan Correctional Facility for Women (EMCF) where they begin a reception classification process.

(b) Upon admission to the reception unit, assignment to housing shall be made based upon the inmate's:

1. Age;
2. Size;
3. Offense;
4. Sentence;
5. Previous incarcerations;
6. Mental status; or
7. Security needs.

(c) The reception process shall be completed within three weeks, unless unusual circumstances arise.

(d) During the reception classification process the inmate shall be:

1. Photographed;
2. Fingerprinted;
3. Given orientation;
4. Given medical and dental examinations;
5. Interviewed by the psychologist, social worker and other staff members; and
6. Scored on Form CRAU-006, Initial Inmate Custody Classification Instrument or Form CRAU-007, Inmate Custody Reclassification Instrument (excluding inmates committed to A.D.T.C.).

(e) At the end of the reception process, a male inmate admitted to the Garden State Reception and Youth Correctional Facility shall appear before the Inter-Institutional Classification Committee (I.I.C.C.) and the decisions on the degree of custody and the appropriate correctional facility to which the inmate will be assigned shall be made.

(f) At the end of the reception process, a male inmate admitted to the A.D.T.C. shall appear before the Institutional Classification Committee (I.C.C.) and decisions on the inmate's program such as housing, therapy, education, while he is at the A.D.T.C. shall be made at that time.

(g) At the end of the reception process, a female inmate admitted to the EMCF shall appear before the Institutional Classification Committee (I.C.C.) and decisions on the inmate's program such as housing, degree of custody, education, job, while she is at EMCF shall be made at that time.

Amended by R.1987 d.460, effective November 16, 1987.
See: 19 N.J.R. 1395(a), 19 N.J.R. 2195(a).

(d)5 deleted; old (d)6 renumbered (d)5.
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 (e).
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 "Male offenders"; inserted (d)6; and in (f) and (g), substituted "such as" for "for example" and deleted "etc." following "education".

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(s) (I.C.C.) which shall be responsible for:

1. Assigning inmates to work, educational, vocational and treatment programs appropriate to their needs;
2. Monitoring the progress of inmates by scheduling periodic reviews to ensure that rehabilitative efforts are being maximized;
3. Reviewing the applications of inmates for changes in custody status;
4. Reviewing the requests of inmates for transfers to other facilities;
5. Making changes in the housing or program assignments of inmates;
6. Assigning the inmate to community release programs;
7. Approving the application for restoration of commutation time;
8. Reviewing the imposition of Administration Segregation;

9. Reviewing Restrictive Activities Program assignments at the Adult Diagnostic and Treatment Center (A.D.T.C.);

10. Reviewing referrals by the Disciplinary Hearing Officer; and

11. Reviewing and approving or disapproving 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.

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. Superintendent 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 Superintendent 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.

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;
5. Social contacts with family and friends;
6. Correctional facility adjustment;
7. Educational history and needs;
8. Vocational history and needs;
9. Military history;
10. Nature and circumstance of present offense;
11. Prior offense record;
12. Records from previous confinement;
13. Detainers on file or pending;
14. Drug dependency and/or involvement;
15. Sexual adjustment;
16. History of escape, attempted escape or propensity for escape;
17. Current psychological and/or psychiatric reports;
18. Medical history and recommendations;
19. Arson history;
20. Needs of the correctional facility; and/or
21. Any other factor pertinent to the inmate's case.

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

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

Stylistic revisions in (a).

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)1; and recodified former (a)1 through (a)20 as (a)2 through (a)21.

10A:9-3.4 Initial classification

(a) Upon assignment to a correctional facility or its satellite, an inmate shall be interviewed and may be tested to determine the inmate's aptitudes, abilities, interests and problems.

(b) The inmate's appearance before the Institutional Classification Committee (I.C.C.) shall occur within 21 days after admission to the correctional facility.

(c) At the initial classification, the I.C.C. shall, subject to availability, assign an inmate to a program which may include:

1. A work assignment;
2. A treatment program;
3. An education program; and/or
4. A vocational training program.

(d) An inmate may be referred by the I.C.C. to a subcommittee or department head for consideration for individual components of the program.

(e) A review date shall be set and the decision of the I.C.C. shall be forwarded to the appropriate departments.

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), substituted "a correctional facility" for "an adult correctional facility".

Case Notes

Inmates had no constitutionally protected right to specific prison work assignments; Regulation of prison work assignments and credits did not impose hardship on inmates that was either atypical or significant in relation to ordinary incidents of prison life. *Lorusso v. Pinchak*, 305 N.J.Super. 117, 701 A.2d 974 (A.D. 1997).

10A:9-3.5 Review dates

(a) An inmate shall be scheduled for a review date at his or her initial classification that is no more than 12 months from the date of initial classification.

(b) The frequency of case review shall be dependent on the review date determined by the Institutional Classification Committee (I.C.C.) or a change in the inmate's status. Factors that may be considered include:

1. Parole date changes;
2. Sentence changes;
3. Changes in personal needs;
4. Referrals from the Disciplinary Hearing Officer; or
5. Other situations arising which make a case review appropriate.

(c) The Classification Officer shall be responsible for scheduling all reviews set by the I.C.C.

(d) An update of the inmate's psychological status shall occur on a yearly basis, or more often as the need arises.

(e) An inmate shall be notified of his or her review date no later than 48 hours prior to its occurrence. When the inmate appears before the I.C.C., he or she may submit a request for reassignment in the areas of:

1. Housing;
2. Work;
3. Education;
4. Vocational training;
5. Counseling or treatment; and
6. Custody status.

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) and (c).

10A:9-3.6 Special reviews

(a) Inmates desiring a special review of their cases because of a change in status may submit a written request which indicates the reason for the review to the staff member(s) designated by the Superintendent.

(b) It shall be the responsibility of the staff member to determine if the requested review is appropriate, and the reports that will be necessary for consideration. If the review is recommended, the staff member will forward all appropriate information to the Institutional Classification Committee (I.C.C.).

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 if it has been referred by a staff member or an institutional committee for the purpose of making a change in:

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

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 on 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).

10A:9-3.9 Educational assignments

(a) Determining factors in referring an inmate to an educational program may include:

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.

10A:9-3.10 Counseling assignments

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

(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).

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 initial program shall be made by the I.C.C. Reassignments may be made upon inmate or staff request, 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 in which the inmate will participate.

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".

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) at Clinton, the I.C.C. 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 the correctional facility, the I.C.C. shall recommend such transfer to the Superintendent where the inmate is currently housed.

(c) Form CRAU-003, Agreement of Transfer, shall be initiated by the Superintendent where the inmate is currently housed. If the Superintendent of the correctional facility to which the inmate is requesting transfer signs Form CRAU-003, the inmate shall be referred 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).

10A:9-3.14 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.

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 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.

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.

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.

(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 of the correctional facility, but on the grounds of the facility and under continuous supervision of a correction officer, civilian instructor or other employee authorized to supervise inmate. 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 assigned to community-based jobs. Community custody status may require periodic supervision in the community as appropriate to circum-

stances 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).

10A:9-4.4 Authority of Classification Committees

(a) Changes in inmates' 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 Superintendent, Assistant Superintendent or Director of Custody Operations.

2. Such custody level changes 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".

10A:9-4.5 Discretion of Institutional Classification Committees (I.C.C.); factors to be considered

(a) In making decisions to reduce an inmate's custody status, Institutional Classification Committees (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 Superintendent and Institutional Classification Committee, 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 Institutional Classification Committees (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) Institutional Classification Committees (I.C.C.) shall not be compelled by these criteria to automatically grant a reduction in custody status to every inmate who is eligible for consideration.

(d) Institutional Classification Committees (I.C.C.) 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 Institutional Classification Committee (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 Superintendent and Institutional Classification Committee, 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 Institutional Classification Committee's reason(s) for increasing the inmate's custody status within five working days.

(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 county jails 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 Institutional Classification Committee (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.

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

(a) The Director of the Division of Operations shall serve as permanent Chairperson of the Inter-Institutional Classification Committee (I.I.C.C.).

(b) Two 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).

10A:9-6.3 Criteria for assignment of inmates

(a) Decisions regarding the degree of custody required for each inmate and the correctional facility of assignment shall be made by the Inter-Institutional Classification Committee (I.I.C.C.) while the inmate is in the reception 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.

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 county jails 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".

10A:9-6.5 Emergency transfers

(a) Superintendents may effect the transfer of inmates within the same complex, prior to review by 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 Superintendent of the correctional facility in which the inmate is housed, an immediate transfer is necessary, the Superintendent shall notify the Assistant Commissioner or Director, Division of Operations of the proposed transfer. With the verbal approval either of the Assistant Commissioner or the Director, the transfer shall be made as soon as possible. If both the Assistant Commissioner and Director are unavailable, the Chief of Staff, Department of Corrections, shall be contacted for approval.

(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 Superintendent 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 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.

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

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

(d) A Superintendent 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 he or she is unable to attend.

(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.