

CHAPTER 18

MAIL, VISITS AND TELEPHONE

Authority

N.J.S.A. 30:1B-6, 30:1B-10 and 30:4-8.1.

Source and Effective Date

R.2002 d.407, effective November 19, 2002.

See: 34 N.J.R. 3050(a), 34 N.J.R. 4444(b).

Chapter Expiration Date

Chapter 18, Mail, Visits and Telephone, expires on November 19, 2007.

Chapter Historical Note

Chapter 18, Mail, Visits and Telephones, was adopted as R.1987 d.263, effective July 6, 1987. See: 19 N.J.R. 33(b), 19 N.J.R. 1214(b).

Pursuant to Executive Order No. 66(1978), Chapter 18, Mail, Visits and Telephone, was readopted as R.1992 d.262, effective May 27, 1992. See: 24 N.J.R. 1204(b), 24 N.J.R. 2627(a).

Subchapter 7, Bedside and Funeral Visits, was renamed as Subchapter 7, Bedside, Private Viewing, and Funeral Visits, by R.1996 d.489, effective October 21, 1996. See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Pursuant to Executive Order No. 66(1978), Chapter 18, Mail, Visits and Telephone, expired on May 27, 1997.

Chapter 18, Mail, Visits and Telephone, was adopted as R.1997 d.431, effective October 6, 1997. See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Subchapter 9, Restrictions Sexually Oriented Materials at the Adult Diagnostic and Treatment Center, was adopted as R.1999 d.193, effective June 21, 1999. See: 31 N.J.R. 918(a), 31 N.J.R. 1615(a).

Chapter 18, Mail Visits and Telephone, was readopted as R.2002 d.407, effective November 19, 2002. See: Source and Effective Date. See, also, section annotations.

Law Review and Journal Commentaries

ACLU Plans Suit to Challenge Prison Censorship. Hanna W. Rosin, 132 N.J.L.J. No. 13, 3 (1992).

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SUBCHAPTER 1. INTRODUCTION

10A:18-1.1 Purpose

(a) The purpose of this chapter is to establish guidelines for:

1. Permitting inmates to correspond with persons or entities outside the correctional facility;
2. Processing legal correspondence in correctional facilities;
3. Inmates sending and receiving publications;
4. Inmates sending and receiving packages;
5. Contact and non-contact visits with inmates;
6. Beside, private viewing and funeral visits by an inmate to a dying or deceased relative; and
7. Inmate access to and use of the telephone.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a)6, inserted “, private viewing”.

10A:18-1.2 Scope

(a) N.J.A.C. 10A:18-1, 2, 3, 4, 6, 7 and 8 shall be applicable to State correctional facilities operated by the Department of Corrections and to inmates housed in facilities other than county jails in accordance with contractual agreements with the Department of Corrections unless otherwise indicated in this chapter.

(b) N.J.A.C. 10A:18-5 shall be applicable to State correctional facilities operated by the Department of Corrections.

(c) N.J.A.C. 10A:18-9 shall be applicable to inmates confined to the Adult Diagnostic and Treatment Center.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Substantially amended section.

Amended by R.1999 d.193, effective June 21, 1999.

See: 31 N.J.R. 918(a), 31 N.J.R. 1615(a).

Added (a) designation; and added (b) and (c).

Amended by R.1999 d.209, effective July 6, 1999.

See: 31 N.J.R. 833(a), 31 N.J.R. 1814(a).

Rewrote (a) and (b).

Amended by R.2002 d.407, effective December 16, 2002.

See: 34 N.J.R. 3050(a), 34 N.J.R. 4444(b).

10A:18-1.3 Definitions

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

“Correspondence” means communication by the exchange of letters.

“Interoffice correspondence” means the exchange of correspondence between offices within the Department of Corrections.

Amended by R.2002 d.407, effective December 16, 2002.

Sec: 34 N.J.R. 3050(a), 34 N.J.R. 4444(b).

In (a), inserted "an adult" preceding "family member" and "of the child" preceding "defined" and amended the N.J.A.C. reference; in (b), substituted "Administrator" for "Superintendent"; in (c), inserted "of the child" preceding "shall be responsible".

10A:18-6.9 Notification to prospective visitors

(a) The correctional facility Administrator or designee shall be responsible to write a letter of information, in English and translated into Spanish, which provides the pertinent visit regulations with which prospective visitors should be familiar. This letter shall include, but is not limited to, the:

1. Visiting times;
2. Number of permissible visitors;
3. Guidelines for visits by children;
4. Identification required;
5. Smoking policy;
6. Zero Tolerance Drug/Alcohol Policy;
7. Notification that in accordance with N.J.A.C. 10A:18-6.14, all visitors, their belongings and vehicles are subject to searches while on the premises of a facility under the jurisdiction of the Department of Corrections;
8. Notification that a visitor(s) who enters the premises of a facility under the jurisdiction of the Department of Corrections and refuses to submit to a search shall be:
 - i. Banned from visiting an inmate committed to the custody of the Department of Corrections for 60 days and required to reapply in writing to the Administrator for approval/disapproval of the reinstatement of visit privileges; and
 - ii. Directed to immediately leave the premises of the facility under the jurisdiction of the Department of Corrections;
9. Notification that a positive indication as a result of a canine search and/or scanning/testing device search is probable cause to believe that criminal activity has or is taking place and, the visitor(s) shall be:
 - i. Detained;
 - ii. Subject to search and arrest; and
 - iii. In accordance with N.J.A.C. 10A:18-6.14, if a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of the visitor(s), the visitor shall be permanently banned from visiting an inmate committed to the custody of the Department of Corrections;
10. Directions to the correctional facility; and
11. Provisions of N.J.S.A. 2C:29-6 which prescribe specific penalties for introducing contraband into a correctional facility.

(b) Copies of the letter of information shall be posted in the visiting areas of the correctional facility.

(c) An inmate may choose one household which shall be notified by correctional facility staff as to the occupants' approval as visitors. The approved visitors shall receive a copy of the correctional facility's letter of information. Such notification shall be transmitted within five business days from the day the inmate is received at the correctional facility.

(d) When an individual is not approved as a visitor, notice of and reasons for the exclusion shall be given to the inmate who submitted the individual's name. The inmate may appeal the decision to the Administrator who shall respond, in writing, within 10 business days of receipt of the appeal.

(e) Procedures on how the inmate can change his or her list of approved visitors shall be incorporated into the Inmate Handbook.

Amended by R.1997 d.431, effective October 6, 1997.

Sec: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted new (a)5 and recodified former (a)5 as (a)6.

Amended by R.1998 d.526, effective November 2, 1998.

Sec: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (a), rewrote the introductory paragraph, added a new 6 and recodified former 6 and 7 as 7 and 8.

Amended by R.2001 d.197, effective June 18, 2001.

Sec: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

In (a), substituted "Administrator" for "Superintendent" in the introductory paragraph, added new 7 through 9 and recodified former 7 and 8 as 10 and 11; in (d), substituted "Administrator" for "Superintendent".

10A:18-6.10 Visitor identification

(a) Adult visitors must have photo identification when visiting an inmate.

(b) One of the following is an acceptable form of visitor identification:

1. A current photo driver's license;
2. A current photo Welfare/Medicaid card;
3. An employment photo I.D. card;
4. A current passport; or
5. A joint connection photo I.D. card. No other form of identification is needed with this card.

(c) Social Security cards shall not be used as a means of identification.

(d) Inability to establish identity should be reported to the Administrator or designee.

Amended by R.1997 d.431, effective October 6, 1997.

Sec: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), substituted "Adult visitors" for "All visitors"; and in (b), deleted signature card from list acceptable forms of identification. Amended by R.2002 d.407, effective December 16, 2002.

See: 34 N.J.R. 3050(a), 34 N.J.R. 4444(b).

In (a), inserted "photo" preceding "identification"; in (b), inserted "photo" following "current" in 1 and 2; in (d), substituted "Administrator" for "Superintendent".

10A:18-6.11 Visiting schedule

(a) The Administrator shall establish a visiting schedule consistent with the orderly and efficient operation of the correctional facility.

(b) When the restriction of visiting on scheduled visit days is a hardship to a visitor, arrangements for suitable hours on other days may be made.

(c) Evening visit schedules may be established where the number of staff permit.

(d) Limitation on the length or frequency of visits may be imposed to avoid overcrowded conditions in the visiting area(s) or when deemed necessary by the Administrator or the highest ranking administrator on duty.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Guidelines for establishing visiting schedules broadened.

Amended by R.2002 d.407, effective December 16, 2002.

See: 34 N.J.R. 3050(a), 34 N.J.R. 4444(b).

In (a) and (d), substituted "Administrator" for "Superintendent".

10A:18-6.12 Number of visitors

(a) The Administrator shall establish written regulations as to the maximum number of persons who may visit an inmate at one time.

(b) These regulations should be interpreted flexibly because their purpose is to prevent overcrowding in the visiting room or unusual difficulty in supervising a visit.

Amended by R.2002 d.407, effective December 16, 2002.

See: 34 N.J.R. 3050(a), 34 N.J.R. 4444(b).

Substituted "Administrator" for "Superintendent".

10A:18-6.13 Treatment of visitors

All correctional staff members shall treat visitors in a professional, dignified, courteous and respectful manner.

10A:18-6.14 Search of visitors

(a) Signs written in English and Spanish shall be posted in both the visiting area and visiting entrances stating that, as a condition of visitation, all visitors, their belongings and vehicles are subject to search(es) while on the premises of the Department of Corrections.

(b) All visitors entering the premises of a facility under the jurisdiction of the Department of Corrections shall be required to submit to a search(es), such as, but not limited to, a passive canine, scanning/testing device and pat search.

(c) If a visitor refuses to submit to a search, and there is no reasonable suspicion that the visitor is in possession of contraband, the visitor shall be directed to immediately leave the premises of the facility under the jurisdiction of the Department of Corrections. No visit shall be permitted, the visitor shall be banned from visiting an inmate(s) committed to the custody of the Department of Corrections for 60 days and the visitor shall be required to reapply in writing to the Administrator for approval/disapproval of the reinstatement of visit privileges.

(d) A male or female custody staff member(s) or scanning/testing device operator(s) may be assigned to conduct scanning/testing device searches of visitors regardless of the gender of the visitors as long as no physical contact is required. A custody staff member of the same gender shall be assigned to conduct searches of visitors that require physical contact, such as, but not limited to, pat searches.

(e) In the event that a custody staff member with the rank of Sergeant or above receives information sufficient to form reasonable suspicion that a visitor is carrying contraband, or when contraband has been detected or indicated on a visitor, the visitor shall be pat searched. If contraband is discovered during the pat search of the visitor, the visitor shall be detained and the Special Investigations Division Investigator shall be contacted.

(f) In the event a correctional facility staff member receives information which leads the staff member to believe that a visitor will be concealing contraband on his or her person, the Administrator or designee shall be contacted immediately. The Administrator or designee may ask the local magistrate to issue a search warrant so that the visitor may be strip searched in accordance with (g) below. The information given to the magistrate must establish probable cause to search. A Special Investigations Division Investigator shall be contacted and shall be present at the correctional facility before the strip search is conducted.

(g) An approved strip search shall be conducted in private by a custody staff member(s) of the same gender as the visitor. No member of the opposite gender of the visitor shall be present in the room during the approved strip search.

(h) All contraband discovered during the search of a visitor shall be confiscated by the custody staff member performing the search, and a written report shall be submitted to the Administrator.

(i) The written report shall specify:

1. The name of the custody staff member who performed the search;
2. The name of the inmate who was to receive the visit;

3. The name and address of the visitor who was searched;
4. The time of the search;
5. The type of search and scanning/testing device used, if any, and the results if any;
6. The description of the items confiscated; and
7. The specific reason for confiscating the items.

(j) All contraband and evidence seized shall be turned over to the Special Investigations Division Investigator.

(k) If a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of a visitor(s) who is on the premises of a facility under the jurisdiction of the Department of Corrections:

- i. The Special Investigations Division shall immediately be contacted;
- ii. The visitor(s) shall be detained;
- iii. The visitor(s) shall be subject to search and arrest;
- iv. No visit shall be permitted; and
- v. The visitor(s) shall be permanently banned from visiting an inmate(s) committed to the custody of the Department of Corrections.

(l) The Administrator shall decide whether the visitor shall continue to have visitation privileges except as established in (k) above and in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c).

(m) All searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the visitor's person.

Amended by R.1995 d.526, effective September 18, 1995.

See: 27 N.J.R. 2675(b), 27 N.J.R. 3613(b).

Administrative Correction.

See: 27 N.J.R. 3957(b).

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b), search by scanning device made mandatory; and in (g), reference to pat search deleted.

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (k), added an exception at the end.

Administrative change.

See: 32 N.J.R. 303(a).

Amended by R.2001 d.197, effective June 18, 2001.

See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Rewrote the section.

10A:18-6.15 Search of inmates

All inmates shall be subject to a search(es) such as, but not limited to, a scanning/testing device, canine, passive canine and/or pat search before a visit, and a scanning/testing device, canine, passive canine, pat search and/or strip

search after a visit, in accordance with procedures established by N.J.A.C. 10A:3-5, Searches of inmates and facilities.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Amended by R.2001 d.197, effective June 18, 2001.

See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Rewrote the section.

10A:18-6.16 Supervision of visits

(a) Visits shall be supervised to help prevent the passage of contraband and to insure the security and orderly operation of the correctional facility.

(b) The staff member in charge of the visiting room shall be responsible for ensuring that all visits are conducted in a quiet, orderly and dignified manner.

(c) The staff member(s) supervising visits should be cognizant of any articles passed between the inmate and the visitor. If there is a reasonable suspicion that articles are being passed which constitute contraband or are otherwise in violation of the law or regulations, the articles shall be confiscated and examined.

(d) Handshaking, embracing and kissing shall be permitted, within appropriate bounds, at the beginning and end of the visit in order to minimize the opportunity to introduce contraband into the correctional facility.

1. An inmate and visitor may hold hands during the visit.

2. Time restrictions regarding contact shall not apply to small children.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), substituted "orderly operation" for "welfare"; in (c), substituted "reasonable suspicion" for "substantial basis to conclude"; re-coded (b)i and ii as (b)1 and 2; and in (b)2, substituted "Time restrictions regarding contact shall not" for "Contact restrictions shall not".

10A:18-6.17 Play areas for children

If a correctional facility provides play areas for children of visitors, signs shall be posted in both English and Spanish stating that children who use the area must be supervised by the parents or a relative and that the area and equipment are used at their own risk.

10A:18-6.18 Gifts of money from visitors

(a) A visitor(s) may only bring a money order or certified check to the correctional facility for deposit in an inmate's account. Cash shall not be accepted.

(b) When a visitor(s) brings a money order or certified check for deposit in the inmate's account, the correctional facility shall:

1. Accept the funds;

2. Establish and/or maintain an appropriate record of funds received;
3. Issue a signed receipt to the visitor(s); and
4. Retain a copy of the receipt.

(c) Each correctional facility may place a limit on the amount of funds which an inmate is permitted to receive, per day, from one visitor or a combination of visitors.

Amended by R.1996 d.22, effective January 2, 1996 (operative February 1, 1996).

See: 27 N.J.R. 3674(a), 28 N.J.R. 152(a).

Substituted "a money order or certified check" and "funds" for "cash", and specified that cash shall not be accepted.

10A:18-6.19 Denial, termination or suspension of a visit

(a) An inmate's visiting privileges shall not be denied because of a violation of correctional facility regulations, other than those regulations specifically related to or concerned with visiting privileges, except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c).

(b) A visit may be denied, terminated or suspended and a visiting privilege suspended under the following circumstances:

1. The visitor(s) is under the influence of drugs or alcohol;
2. Space is unavailable;
3. The visitor(s) refuses to submit to search procedures;
4. The visitor(s) refuses or fails to produce sufficient identification or falsifies identifying information;
5. The visit rules of the correctional facility are violated by the visitor, provided that such rules are posted;
6. Children are disturbing other persons in the visiting area;
7. Physical contact between the visitor and inmate which is in excess of N.J.A.C. 10A:18-6.16(d);
8. Any action that affects the ability of the staff to ensure the safe, secure and orderly operation of the correctional facility and the visiting room; or
9. A violation of the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2.

(c) Except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c), prior to the denial or termination of visiting privileges for circumstances listed in (b) above, less restrictive action should be instituted. Such action may include:

1. Warning the inmate and/or visitor of improper conduct; and/or
2. Transferring the visit to a non-contact visiting area.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (b)8, substituted "Any action . . . the visiting room" for "Denial or termination of visiting privileges is necessary to preserve security of the correctional facility and maintain order in the visiting room".

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (a), added an exception at the end; in (b), added a new 9; and rewrote (c).

10A:18-6.20 Request to reinstate contact privileges

(a) An inmate may request the reinstatement of contact visit privileges that were terminated in accordance with N.J.A.C. 10A:4-5.1(c) or 5.2(c). After 365 days from the date the sanction was imposed, the inmate may forward a written request for reinstatement of contact visit privileges to the Administrator or designee. If a request is not produced by the inmate, no consideration of reinstatement shall be extended. The Administrator or designee shall review and approve or disapprove the reinstatement of contact visit privileges. The inmate may appeal the decision of the Administrator or designee to the Assistant Commissioner or designee, Division of Operations.

(b) The reinstatement of contact visit privileges for an inmate who has been found guilty of a second or subsequent drug or alcohol related prohibited act as established in N.J.A.C. 10A:4-5.1 or 5.2 will be considered after the inmate has completed all consecutive 365-day sanctions imposed and has submitted a request to the Administrator or designee.

New Rule, R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

Former N.J.A.C. 10A:18-6.20, Suspension of visiting program under emergency conditions, was recodified to N.J.A.C. 10A:18-6.21.

Amended by R.2002 d.36, effective February 4, 2002.

See: 33 N.J.R. 3403(a), 34 N.J.R. 743(a).

In (a), inserted "privileges" following "visit" in the second sentence, "contact" following "inmate's" in the fourth sentence, and "or designee" following "Commissioner" in the fourth and fifth sentences, and deleted "/Superintendent" following "Administrator" throughout.

Amended by R.2004 d.294, effective August 2, 2004.

See: 36 N.J.R. 1657(a), 36 N.J.R. 3552(a).

Rewrote the section.

10A:18-6.21 Suspension of visiting program under emergency conditions

(a) The Administrator of a correctional facility shall notify the Commissioner of the Department of Corrections whenever the safety, security and orderly operation of the correctional facility is seriously threatened.

(b) The Commissioner shall determine if an emergency exists at the correctional facility and shall make a public declaration to this effect through the Department of Corrections Office of Public Information.

(c) In order to return the correctional facility to a safe, secure and orderly operation, the Administrator may suspend certain programs for the duration of the emergency. The Administrator shall consult with the Commissioner regarding the suspension of programs.