

(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 the N.J.S.A. 47:1A-2, 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.
Sec: 25 N.J.R. 4552(a), 25 N.J.R. 5475(a).

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.

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:

“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.

“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.

“Capital Sentence Unit (C.S.U.)” means the close custody unit to which persons sentenced to death pursuant to N.J.S.A. 2C:11-3 are assigned until such time that the execution is carried out, the sentence is commuted or the sentence is changed to a lesser penalty.

“Central Communications Unit” means the centralized communication center within the Department of Correc-

tions 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.

“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.

“Constant observation” means uninterrupted surveillance of an inmate on suicide watch, either in-person or by video monitor when the monitor allows for continuous unobstructed vigilance of the inmate.

“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;
2. Any item, article, or material found within the facility or on its grounds which has not been issued by the correctional facility or authorized as permissible for retention or receipt;
3. Any item, article or material found in the possession of, or under the control of staff or visitors within the facility or on its grounds which is not authorized for receipt, retention or importation;
4. Any item, article or material which is authorized for receipt, retention or importation by inmates, staff or visitors but which is found in an excessive amount or

which has been altered from its original form. An amount shall be considered excessive if it exceeds stated correctional facility limits or exceeds reasonable safety, security, sanitary, or space considerations; or

5. Any article which may be harmful or presents a threat to the security and orderly operation of the correctional facility shall be considered contraband. Items of contraband shall include, but shall not be limited to: guns and firearms of any type; ammunition; explosives; knives, tools and other implements not provided in accordance with correctional facility regulations; hazardous or poisonous chemicals and gases; unauthorized drugs and medications; medicines dispensed or approved by the correctional facility but not consumed or utilized in the manner prescribed; intoxicants, including, but not limited to, liquor or alcoholic beverages; and where prohibited, currency and stamps.

“Custody staff” except as otherwise provided, means Custody Supervisors, Senior Correction Officers and Correction Officer Recruits who have been sworn as peace officers.

“Custody status” means the degree of supervision that is required for an inmate to enter or leave a correctional facility.

“Deadly force” means force which is intended to cause, or is likely to cause death or serious bodily harm.

“Department” means the New Jersey Department of Corrections.

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

“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 Immigration and Naturalization Service. 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.

“Director” means the executive officer next in rank to the Assistant Commissioner (Chief Executive Officer) of a Division within the Department of Corrections.

“Disciplinary Hearing Officer” means a staff member of the Department of Corrections designated to hear and adjudicate inmate violations of prohibited acts.

“Disciplinary report” means a form on which a violation of a prohibited act is recorded along with other pertinent information.

“Disciplinary sanction” means a prescribed penalty that is imposed for violation of a prohibited act.

“Division of Operation” means the administrative unit that is responsible for the administration of all correction facilities within the New Jersey Department of Corrections.

“Division of Parole and Community Programs” means the agency within the Department of Corrections which is charged with the preparation, release and supervision of those offenders who are paroled by the New Jersey State Parole Board; the supervision of parolees from other states who have been accepted under the terms of the Adult Compact for the Supervision of Parolees and Probationers; the supervision and monitoring of inmates assigned to the Electronic Monitoring Program and Furlough Program; the supervision of certain Executive Clemency cases; and any other inmate community program such as the Work Release Program.

“Electronic Monitoring Program (EMP)” means a program in which an inmate lives in the community and is monitored by an electronic monitoring device.

“Firearm” means any hand gun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile, bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the ignition of flammable or explosive substances.

“General population” means the common body of inmates not assigned to Close Custody Units (see N.J.A.C. 10A:5).

“Handbook on Discipline” means a handbook published by the Department of Corrections that is provided to inmates which contains an inmate’s rights and responsibilities, the acts and activities which are prohibited and the disciplinary procedures and sanctions imposed.

“Housing unit” means a cell, dormitory, or other type of sleeping area within a correctional facility.

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

“Indeterminate sentence” means a sentence of imprisonment which contains no fixed term of duration (see N.J.S.A. 30:4-148).

“Indigent inmate” means an inmate who has no funds in his or her account and is not able to earn inmate wages due to prolonged illness or any other uncontrollable circumstances, and who has been verified as having no outside source from which to obtain funds.

“Inmate handbook” means a booklet published by the correctional facility which contains correctional facility rules, procedures and information about correctional facility services and programs.

“Inmate Liaison Committee” means a group of inmate representatives, authorized by the correctional facility administration to act on behalf of correctional facility inmates. An authorized inmate group may be known as something other than an Inmate Liaison Committee.

“Inmate personal property” means items owned by an inmate which have been approved for retention by the inmate while incarcerated in a correctional facility. Inmate personal property may also be property held by a correctional facility on behalf of an inmate and handled in accordance with N.J.A.C. 10A:1-11.

“Institutional Classification Committee (I.C.C.)” means the group of staff members within a correctional facility that is responsible for monitoring an inmate’s progress and assigning the inmate to appropriate programs or activities.

“Inter-institutional Classification Committee (I.I.C.C.)” means the representatives, from different correctional facilities, that are responsible for determining the correctional facility to which an inmate is assigned and approving requests for transfer from one correctional facility to another.

“Internal Affairs Unit” means the unit responsible for conducting investigations at the discretion of the Commissioner.

“Keep separate status” means the intentional assignment of certain inmates to different correctional facilities or different units within a correctional facility so as to maintain a separation between these inmates in order to prevent the possibility of retaliation because of a previous act or occurrence.

“Lawfully confined” means custodially confined in a detention facility, county correctional facility or a facility of the Department of Corrections.

“Legal correspondence” means the exchange of letters between an inmate and:

1. An attorney of this State or any other state when properly identified as such on the outside of the envelope;
2. Offices of the Federal or State Public Defender;
3. The Office of the Attorney General;
4. Federal and State courts;

5. Federal and State court judges;
6. Offices of Legal Services;
7. Legal assistance clinics managed by accredited law schools of this or any other state;
8. The Administrative Office of the Courts;
9. Offices of the Federal or State Prosecutor;
10. The Bureau of Risk Management, New Jersey Department of the Treasury;
11. The Internal Affairs Unit, Department of Corrections;
12. The Office of the Ombudsman, Department of Corrections; and
13. The Office of Administrative Law.

“Legal material” means papers or documents that are required to be filed with the court and served upon opposing parties. Legal material includes:

1. Orders required by their terms to be served;
2. Written notices;
3. Written motions;
4. Demands, or answers to demands which the inmate is required to serve, such as, for the production of documents for interrogatories;
5. Offers of judgment;
6. Designations of records on appeal;
7. Briefs;
8. Petitions;
9. Summons; and
10. Complaints.

“Mechanical restraints” means restraining devices such as, but not limited to, handcuffs, flex cuffs, leg irons, and belly chains.

“News media representative” means an individual with valid press credentials who provides any means of communication to the public.

“Non-asterisk offense” means a prohibited act that is considered less serious and results in a less severe sanction.

“Non-deadly force” means force which is not likely to cause death or serious bodily harm.

“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 correctional facility 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);
15. Balance on parole eligibility date (reclassification only); and
16. System overrides.

“On-the-spot correction” means the immediate imposition of a sanction upon an inmate for the violation of a minor prohibited act.

“Pat search” means a thorough search of a fully-clothed inmate, including the clothing and personal property in the inmate’s possession.

“Prehearing detention” means removal of an inmate from the general population pending an investigation and a hearing into an alleged violation of a prohibited act.

“Prison Complex” means state correctional facilities designated to house inmates serving prison sentences.

“Probable cause” means reasonable ground(s) of suspicion, supported by circumstances sufficiently strong to warrant a cautious person to believe that criminal activity is taking place.

“Prohibited act” means conduct in violation of rules and regulations which will result in the imposition of sanctions.

“Protective custody” means confinement to a secure unit designated to restrict or limit an inmate’s activities and contacts with others, in order to provide protection to the inmate from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, reports from an informant(s) or other reliable source(s) of information.

“Reasonable suspicion” means a belief that an action is necessary based upon specific and articulable facts that, taken together with rational inferences from those facts, reasonably support a conclusion.

“Regional institution” means the correctional facility designated to provide support services to a contract agency, such as medical, security, administration, disciplinary returns, psychological evaluations and parole hearing scheduling.

“Security threat group” means a group of inmates possessing common characteristics, interests and goals which serve to distinguish the inmates from other inmates or groups of inmates and which, as a discrete entity, poses a threat to the safety of staff, other inmates or the community and to the orderly operation of the correctional facility.

“Shift supervisor” means the correction officer responsible for the maintenance of security during a tour of duty in a correctional facility or unit.

“Strip search” means a thorough and systematic examination of an unclothed person’s body and orifices, including visual inspection of external genital and anal areas, as well as the person’s clothing and all personal possessions.

“Suicide watch” means monitoring the activities, emotional status and behavior of inmates who are identified as emotionally troubled, mentally disturbed or otherwise deemed likely to inflict physical injury or death upon themselves.

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

“Youth Complex” means State correctional facilities designated to house young adult offenders pursuant to N.J.S.A. 30:4-146.

“Zero Tolerance Drug/Alcohol Policy” means a zero tolerance for the possession/sale/use by State prison inmates of any drugs, intoxicants or narcotic paraphernalia not prescribed for the inmate by medical or dental staff. This policy establishes that inmates found guilty of drug/alcohol related prohibited acts as set forth in N.J.A.C. 10A:4-5.1(c) and 5.2(c) shall have their contact visit privileges terminated while housed in New Jersey State prisons and correctional facilities in addition to being subject to administrative action and program requirements in accordance with N.J.A.C. 10A:4, Inmate Discipline.

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

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

Revised definition “youth complex”.

Amended by R.1993 d.246, effective June 7, 1993.

See: 25 N.J.R. 1043(a), 25 N.J.R. 2591(b).

Amended by R.1998 d.364, effective July 20, 1998.

See: 30 N.J.R. 1367(b), 30 N.J.R. 2618(b).

In "Legal correspondence", inserted a new 10 and recodified former 10 through 12 as 11 through 13.

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

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

Added new "Zero Tolerance Drug/Alcohol Policy" definition.
Administrative correction.

See: 31 N.J.R. 1066(a).

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.

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 and exemption authority

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