

TITLE 10A

DEPARTMENT OF CORRECTIONS

CHAPTER 1

ADMINISTRATION, ORGANIZATION AND MANAGEMENT

Authority

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

Source and Effective Date

R.1997 d.527, effective December 15, 1997.
See: 29 N.J.R. 4231(a), 29 N.J.R. 5296(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, Administration, Organization and Management, expires on June 13, 2003. Subchapter 3, Disability Grievance Procedure, is exempt from expiration under 28 C.F.R. Part 35. See: 35 N.J.R. 331(a).

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 was readopted as R.1992 d.269, effective June 1, 1992. See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

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: Source and Effective Date.

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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 com-

mitted to State correctional facilities or released on parole;

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.

10A:1-1.2 Procedure to petition for rulemaking

(a) An interested person may apply to petition for the promulgation, amendment or repeal of any 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 proposal 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;
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 Director, Office of Policy and Planning, Department of Corrections, Cubberly Building, PO Box 863, Trenton, New Jersey 08625-0863.

(d) When the Commissioner, or designee, accepts the petition which satisfies the requirements of (a), (b) and (c) above, the Department of Corrections shall file the document for publication as a notice of petition for a rule in the New Jersey Register pursuant to N.J.A.C. 1:30-4.1(c).

(e) No later than 60 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 which 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 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 days of referring the matter for further deliberations.

(f) Upon conclusion of further deliberations, as established in (e)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 reasons(s), or grant the petition and include a statement that the Department shall initiate rulemaking proceedings within 90 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.
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).

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 assessing the official Department of Corrections website at www.state.nj.us/corrections, or by making a telephone call to (609) 292-9340.

(b) Inmates requesting information or services are directed to contact the Department of Corrections, Office of the Ombudsman by mail at PO Box 863, Trenton, New Jersey 08625 -0863 or by making a collect telephone call to (609) 292-8020. The Ombudsman is the only Administrative office of the Department of Corrections authorized to accept collect calls from inmates.

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," following "08625-0863".

10A:1-1.4 Reimbursement for costs of copying

(a) Pursuant to N.J.S.A. 47:1A-2, correctional facilities and other administrative units within the Department of Corrections may charge the following fees for copying records deemed to be public:

- | | |
|-------------------------------|-----------------|
| 1. First through 10th page | \$0.75 per page |
| 2. Eleventh through 20th page | \$0.50 per page |
| 3. All pages over 20 | \$0.25 per page |

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

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 readoption 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; 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 days, when, within 30 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 the need 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 days of the publication of the proposed rulemaking activity in the N.J.R.; or

2. Sufficient public interest is shown by the public. For purposes of this subsection, sufficient public interest for conducting a public hearing exists when 100 or more individuals have communicated the need for a public hearing and the basis for such a need 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 need for a public hearing, the Department shall not consider the following:

(1) Comments from incarcerated individuals 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).

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 (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; 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).

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:

“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.

“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 and/or materials.

“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 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.

“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.

“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.

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

“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.

“Scanning/testing device” means a mechanical and/or electronic instrument used to identify or to detect certain substances and materials.

“Scanning/testing device operator” means an individual specially trained and authorized by the Department to operate a scanning/ testing device.

“Scanning/testing device search” means a search of a person or object by exposure to a mechanical and/or electronic instrument used to detect certain substances and materials.

“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 Commander” means the custody staff member responsible for the maintenance of security during a tour of duty in a correctional facility or unit.

Special Investigations Division,“ prior to November 17, 1999 known as the Internal Affairs Unit, means the unit responsible for conducting investigations at the discretion of the Commissioner.

“Special needs inmate” means an inmate who suffers a DSM IV, axis I and/or axis II disorder which interferes with the inmate’s ability to meet the functional requirements of prison life without mental health treatment.

“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.

“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).

Amended by R.1999 d.187, effective June 7, 1999 (operative July 1, 1999).

See: 31 N.J.R. 831(a), 31 N.J.R. 1487(b).

Inserted “Special needs inmate”.

Amended by R.2000 d.33, effective January 18, 2000.

See: 31 N.J.R. 3577(a), 32 N.J.R. 303(b).

Deleted “Internal Affairs Unit”; and inserted “Special Investigations Division”.

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

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

Added “Administrator”, “Associate Administrator”, “Canine search”, “Passive canine search”, “Scanning/testing device”, “Scanning/testing device operator” and “Scanning/testing device search”; in “Shift supervisor”, substituted “Commander” for “supervisor” and substituted “custody staff member” for “correction officer”; deleted “Superintendent”.

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.

(b) The Commissioner is authorized to determine all matters of policy and regulate the administration of correctional facilities, community programs and operational units and modify policies and regulations so that same can function 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 certain requirements of a rule in instances when strict compliance with a rule or all of its requirements would result in undue hardship and/or security risk to the overall management of a correctional facility, community program or operational unit.

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).

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 Superintendent 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.

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 members or committees to the Superintendent 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 Superintendent along with recommendations for approval or disapproval.

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

(d) The Superintendent, 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 Superintendent, 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 Superintendent, 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 Superintendent, 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).

10A:1-2.8 Forms

(a) The following forms related to Administration, Organization and Management shall be reproduced from originals that are available by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 911 Request for Rule Exemption;
2. 980-I Research Project Request; and
3. 980-II Inmate/Parolee Research Participation Consent.

(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 shall 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).

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

Authority

N.J.S.A. 30:1B-6, 42 U.S.C. § 12101 et seq. and 28 C.F.R. § 35.107.

Source and Effective Date

R.1993 d.617, effective December 6, 1993.
See: 25 N.J.R. 1326(b), 25 N.J.R. 5474(a).

Executive Order No. 66(1978) Expiration Date

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

10A:1-3.1 Definitions

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

“ADA” means the Americans with Disabilities Act, 42 U.S.C.A. § 12101 et seq.

“Agency” means the New Jersey Department of Corrections.

“Designated decision maker” means the Commissioner of Corrections or his or her designee.

10A:1-3.2 Purpose

(a) These rules are adopted by the agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. 35.107.

(b) The purpose of these rules is to establish a designated coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Those duties shall also include the investigation of any complaint filed with the agency pursuant to N.J.A.C. 10A:1-3.5 through 3.8.

10A:1-3.3 Required ADA notice

In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the agency's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency.

AGENCY NOTICE OF ADA PROCEDURE

The agency has adopted an internal grievance procedure providing for prompt and equitable resolution of grievances alleging any action prohibited by the U.S. Department of Justice regulations implementing Title 11 of the Americans with Disabilities Act. Title 11 states, in part, that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination” in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 10A:1-3. As those rules indicate, grievances should be addressed to the agency's designated ADA Coordinator, who has been designated to coordinate ADA compliance efforts, at the following address:

ADA Coordinator
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863

1. A grievance may be filed in writing or orally, but should contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator. In cases of employment related grievances, the procedures established by the Department of Personnel, N.J.A.C. 4A:7-1.1 et seq. will be followed where applicable.
2. A grievance should be filed promptly within 30 days after the grievant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)
3. An investigation, as may be appropriate, will follow the filing of a grievance. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a grievance.



4. In most cases a written determination as to the validity of the grievance and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the grievant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the grievances filed.

6. The right of a person to a prompt and equitable resolution of the grievance filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA grievance with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

Case Notes

Inmates' ability to challenge statutory imposition of co-payments for medical care, via disability discrimination grievance procedures, adequately protected inmates' due process rights. Mourning v. Correctional Medical Services, (CMS) of St. Louis, Missouri, 300 N.J.Super. 213, 692 A.2d 529 (A.D.1997).

10A:1-3.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

ADA Coordinator
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All grievances alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 10A:1-3.5 through 3.8.

10A:1-3.5 Grievance procedure

A grievance alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C. 10A:1-3.4 within 30 days of the grievant becoming aware of the alleged violation. A grievance alleging employment discrimination will be processed pursuant to the rules of the

Department of Personnel, N.J.A.C. 4A:7-1.1 through 3.4, if those rules are applicable.

10A:1-3.6 Grievance contents

(a) A grievance submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 10A:1-3.7.

(b) A grievance submitted pursuant to this subchapter shall include the following information:

- 1. The name of the grievant, and/or any alternate contact person designated by the grievant to receive communication or provide information for the grievant;
2. The address and telephone number of the grievant or alternate contact person; and
3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

10A:1-3.7. Americans with Disabilities Act Grievance Form 100

The following Americans with Disabilities Act Grievance Form 100 may be utilized for the submission of a grievance pursuant to this subchapter:

Americans with Disabilities Act Grievance Form 100
Date: _____
Name of grievant: _____
Address of grievant: _____
Telephone number of grievant: _____
Name, address and telephone number of alternate contact person: _____
Agency alleged to have denied access:
Department: _____
Division: _____
Bureau or office: _____
Location: _____
Incident or barrier: _____
Please describe the particular way in which you believe you have been denied the benefits of any service, program or

activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above Form 100 may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 10A:1-3.4.

Administrative change.
27 N.J.R. 4717(a).

10A:1-3.8 Investigation

(a) Upon receipt of a grievance submitted pursuant to this subchapter, the designated ADA coordinator will notify the grievant of the receipt of the grievance and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the grievance, if practicable or unless a later date is agreed to by the grievant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the grievance, if practicable or unless a later date is agreed to by the grievant, which decision shall be transmitted to the grievant and/or the alternate contact person if so designated by the grievant.

SUBCHAPTERS 4 THROUGH 9. (RESERVED)

SUBCHAPTER 10. RESEARCH

10A:1-10.1 Medical research or experimentation

(a) No medical, pharmaceutical or cosmetic experiments or research shall be conducted involving the use of inmates or parolees of the New Jersey Department of Corrections except as provided by court order, consent decree, or other legal processes.

(b) The New Jersey Department of Corrections may authorize nonmedical, nonpharmaceutical and noncosmetic research projects that are conducted in accordance with this subchapter.

10A:1-10.2 Procedure for submitting a request to conduct nonmedical, nonpharmaceutical and noncosmetic research projects

(a) Any person(s) or agency(s) who wishes to conduct nonmedical, nonpharmaceutical or noncosmetic research projects shall complete and submit Form 980-I Research Project Request to the correctional facility Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor.

(b) The correctional facility Superintendent, Parole District Supervisor, community program supervisor or operational unit supervisor shall review Form 980-I to determine if the research will:

- 1. Adversely affect the maintenance of security and/or the orderly operation of the correctional facility or unit;
2. Involve the review of inmate or parolee records; and/or
3. Require inmate or parolee participation, such as interviews or questionnaires.

(c) When the research activity does not involve the review of inmate or parolee records or the participation of inmates or parolees, the correctional facility Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor may approve or disapprove a request for research by signing and dating the designated section of Form 980-I. The original Form 980-I shall be returned to the person(s) or agency(s) requesting to conduct the research, and a copy of Form 980-I shall be retained by the correctional facility Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor.

(d) When the research activity involves the review of inmate or parolee records or the participation of inmates or parolees, the correctional facility Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor shall complete the designated section of Form 980-I and submit the Form to the Director, Office of Policy and Planning for review, who in turn shall submit the Form to the appropriate Assistant Commissioner with a recommendation for approval or disapproval.

1. The Assistant Commissioner shall review Form 980-I and shall approve or disapprove the request to conduct research by signing and dating the designated section on Form 980-I and shall then submit Form 980-I to the Commissioner for final review.

2. The Commissioner shall retain the final review authority of any request to conduct research which involves the review of inmate or parolee records or the participation of inmates or parolees.

3. The Commissioner shall approve or disapprove the request to conduct research by signing and dating the designated section on Form 980-I and shall return Form 980-I to the Assistant Commissioner.

4. The Assistant Commissioner shall retain a copy of the signed Form 980-I and return the original to the correctional facility Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor.

Administrative Correction.
See: 26 N.J.R. 2581(a).

10A:1-10.3 Express written inmate/parolee consent requirement

(a) The express written consent of the inmate and/or parolee shall be required:

1. To ensure that direct inmate participation in any research project is on a voluntary basis; and
2. To authorize inspection or release of records pursuant to N.J.A.C. 10A:22-2.8.

(b) In order to obtain written consent of an inmate or parolee to directly participate in a research activity, Form 980-II Inmate/Parolee Research Participation Consent shall be completely filled in and signed by:

1. The inmate/parolee;
2. A witness; and
3. The correctional facility Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor.

10A:1-10.4 Refusal to participate in research

(a) An inmate or parolee shall not be required or coerced to participate in research activities.

(b) Refusal by an inmate or parolee to participate in research shall not constitute a reason for imposing penalties upon the inmate or parolee.

10A:1-10.5 Inmate/parolee records

Confidentiality of inmate/parolee records and procedures for release or examination of records by authorized individuals or agencies shall be in accordance with N.J.A.C. 10A:22-2, Records.

10A:1-10.6 Research findings

The person(s) or agency(s) who completes a research project must, prior to publication or any public dissemination, make available the research findings or results to the correctional facility Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor and the Commissioner, New Jersey Department of Corrections, for review and comments.

10A:1-10.7 Written procedures

(a) Each correctional facility Superintendent, community program supervisor, operational unit supervisor, and the Assistant Commissioner, Division of Parole and Community Programs shall ensure the development of written procedures governing research projects and activities consistent with the requirements of this subchapter.

(b) These written procedures shall be reviewed at least annually and updated as necessary and signed and dated by the Superintendent, Parole District Supervisor, community program supervisor, or operational unit supervisor.

SUBCHAPTER 11. PERSONAL PROPERTY OF INMATES

10A:1-11.1 Inmate's responsibility for personal property

While incarcerated within a correctional facility, the inmate shall be responsible for his or her own personal property and shall keep personal property at his or her own risk.

10A:1-11.2 Permissible personal property

(a) Each correctional facility shall develop a written list of permissible personal property items and the number of permissible personal property items which may be retained in the possession of the inmate.

(b) The listing and any regulations concerning inmate personal property shall be published in each correctional facility Inmate Handbook (see N.J.A.C. 10A:8-3).

(c) New or revised lists or regulations not included in the current correctional facility Inmate Handbook shall be post-

ed in inmate housing units and incorporated into the next revision of the Handbook.

(d) The listing of permissible personal property shall be reviewed, signed and dated annually by the Superintendent or designee and forwarded to the appropriate Assistant Commissioner for review and approval.

(e) The Assistant Commissioner may approve or disapprove the possession of any item and/or limit the number of items that may be possessed by inmates in correctional facilities.

(f) The Assistant Commissioner shall be notified, in writing, during the course of the year of any additions to or deletions from the list of permissible personal property.

(g) The Chief, Bureau of Community and Professional Services, shall disseminate lists of county jail permissible property as needed, to each correctional facility.

Amended by R.1996 d.469, effective October 7, 1996.
See: 28 N.J.R. 3701(a), 28 N.J.R. 4481(a).
Petition for Rulemaking.
See: 30 N.J.R. 1099(a), 30 N.J.R. 1327(a).

10A:1-11.3 Non-permissible personal property

(a) The correctional facility shall notify an inmate, in writing, whenever the inmate possesses any property which is non-permissible personal property.

(b) The correctional facility shall inventory and package the non-permissible personal property and the inmate shall indicate, in writing, which of the following means of disposal should be used with respect to the non-permissible personal property. The non-permissible personal property shall either be:

1. Mailed to the inmate's home at the inmate's expense;
2. Given to a visitor designated by the inmate;
3. Donated by the inmate to a charitable organization at the inmate's expense; or
4. Destroyed.

(c) If the non-permissible property is to be removed by a family member or friend(s), the inmate shall arrange for the removal of the non-permissible personal property within 30 calendar days after receiving the written notification from the correctional facility.

(d) If the inmate's non-permissible personal property is not removed from the correctional facility within 30 calendar days after the written notification, the inmate shall receive a second written notification stating that:

1. The property will be held for a maximum of 30 additional calendar days;

2. The property will be disposed of if it is not removed by a specified date; and

3. The correctional facility shall not be liable for personal property that is held longer than 60 calendar days.

(e) If the inmate or designee fails to respond to a second written notification within 30 calendar days, correctional facility may dispose of the non-permissible personal property by:

1. Donating the non-permissible personal property to any recognized public charitable organization;
2. Retaining the non-permissible personal property for use by the general inmate population, such as a typewriter for use in the Inmate Law Library; or
3. Destroying the non-permissible personal property.

(f) Copies of written notices to the inmate about non-permissible personal property shall become a permanent part of the inmate's classification folder (see N.J.A.C. 10A:1-11.10).

Amended by R.1989 d.45, effective January 17, 1989.
See: 20 N.J.R. 2746(a), 21 N.J.R. 163(a).
Added new (e) and recodified old (e) to (f).
Amended by R.1992 d.269, effective July 6, 1992.
See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).
Revised (b) and (f).

10A:1-11.4 Storage of non-permissible personal property

(a) Correctional facilities shall not store inmate non-permissible personal property for more than 60 calendar days except in instances as stated in (b) below.

(b) When an inmate does not have visitors, immediate family members or a home address, the inmate may request written approval of the Superintendent to store non-permissible personal property for a period longer than 60 calendar days.

(c) If the Superintendent approves the inmate's request, made pursuant to (b) above, the personal property shall be stored at the inmate's risk, until an alternate plan can be made for storage.

10A:1-11.5 Marking inmate personal property

Each correctional facility shall establish a means of marking inmate personal property for identification purposes.

10A:1-11.6 Inventory of inmate personal property

(a) Each correctional facility shall use and maintain the IIS-1M Inmate Inventory Sheet. This inventory sheet shall be used to itemize all personal property in the inmate's possession upon admission, while incarcerated and upon transfer.

(b) If possible, the inmate's personal property shall be inventoried in his or her presence.

(c) The completed IIS-1M Inmate Inventory Sheet and any subsequent updates to this inventory sheet shall be signed by both the inventory officer and the inmate.

(d) In the event the inmate refuses to sign the IIS-1M Inmate Inventory Sheet, the inventory officer shall note the inmate's refusal on the inventory sheet.

(e) The signed IIS-1M Inmate Inventory Sheet shall be maintained on file (see N.J.A.C. 10A:1-11.10) and a copy shall be given to the inmate.

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

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

Added new (d); redesignated existing (d) as (e).

Amended by R.1996 d.469, effective October 7, 1996.

See: 28 N.J.R. 3701(a), 28 N.J.R. 4481(a).

10A:1-11.7 Disposition of personal property when an inmate is transferred

(a) Central Medical/Transportation shall be responsible for transporting personal property of inmates. If Central Medical/Transportation is unable to transport the property at the time of the transfer, Central Medical/Transportation will be responsible for transporting the inmate's personal property to the receiving correctional facility within seven working days from the date of transfer.

(b) Except for inmate transfers to a hospital, all transfers shall be considered permanent for the purpose of inmate personal property disposition.

(c) When an inmate is transferred from one correctional facility to another, it shall be the responsibility of the sending correctional facility to send with the inmate all of the inmate's personal property.

(d) When an inmate is transferred to a county jail, non-permissible personal property shall not be sent by the sending correctional facility to the county jail. Non-permissible personal property shall be inventoried, packaged and mailed to the inmate's home at the expense of the sending correctional facility or the non-permissible personal property shall be made available for removal by designated family members or friends of the inmate.

(e) An inmate being transferred to another correctional facility who does not have visitors, immediate family members or a home address, may request written approval of the receiving correctional facility Superintendent to store the inmate's non-permissible personal property.

(f) If the receiving correctional facility Superintendent approves the inmate's request, the Superintendent shall give the inmate a written notification stating that:

1. The personal property will be stored at the inmate's risk;

2. The personal property will be held for a maximum of 60 additional calendar days;

3. The personal property will be disposed of if it is not removed by a specified date; and

4. The correctional facility shall not be liable for personal property that is held longer than 60 calendar days.

(g) In every case that personal property is mailed to the inmate's home, a receipt for said mailing shall be obtained from the mailing source, such as a post office or railway office, and filed in the inmate's classification folder (see N.J.A.C. 10A:1-11.10).

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

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

Revised (f).

Amended by R.1996 d.469, effective October 7, 1996.

See: 28 N.J.R. 3701(a), 28 N.J.R. 4481(a).

10A:1-11.8 Responsibility for personal property when an inmate is released

(a) When an inmate is released on parole or at the expiration of maximum sentence, the inmate shall:

1. Take the personal property when leaving the correctional facility; or

2. Arrange for the personal property to be sent, at the expense of the inmate, to the inmate's home; or

3. Arrange for a family member(s) or friend(s) to remove the personal property from the correctional facility within 30 calendar days after the inmate's release.

(b) When the inmate's personal property is to remain at the correctional facility, a mailing address shall be obtained from the inmate before release. If the inmate's personal property is not picked up within 30 calendar days, the correctional facility shall forward written notification to the ex-inmate stating that:

1. The property will be held for a maximum of 30 additional calendar days;

2. The property will be disposed of if it is not removed by a specified date; and

3. The correctional facility shall not be liable for personal property that is held longer than 60 calendar days.

(c) If the inmate or designee fails to respond to the written notification within 30 calendar days, correctional facility may dispose of the personal property by:

1. Donating the personal property to any recognized public charitable organization;

2. Retaining the personal property for use by the general inmate population, such as a typewriter for use in the Inmate Law Library; or

3. Destroying the personal property.

(d) Copies of written notices to the inmate about personal property shall become a permanent part of the inmate's classification folder (see N.J.A.C. 10A:1-11.10).

Amended by R.1989 d.45, effective January 17, 1989.

See: 20 N.J.R. 2746(a), 21 N.J.R. 163(a).

Added new (c) and recodified old (c) to (d).

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).

10A:1-11.9 Responsibility for personal property when inmate escapes

(a) When an inmate escapes, the inmate's personal property shall be held at the correctional facility for 30 calendar days.

(b) If the escaped inmate does not return within 30 calendar days to the correctional facility or any other correctional facility within the jurisdiction of the New Jersey Department of Corrections, the inmate's property shall be deemed abandoned property.

(c) The correctional facility may dispose of abandoned personal property by:

1. Donating the personal property to any recognized public charitable organization;
2. Retaining the personal property for use by the general inmate population, such as a typewriter for use in the Inmate Law Library; or

3. Destroying the personal property.

(d) A written notice of final disposition of the escaped inmate's abandoned personal property shall become a permanent part of the inmate's classification folder (see N.J.A.C. 10A:1-11.10).

New Rule, R.1992 d.269, effective July 6, 1992.

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

Old section 11.9 "Records", recodified to 11.10.

10A:1-11.10 Records

(a) Copies or originals of the following shall become a permanent part of the inmate's classification folder.

1. Any written notices to the inmate about personal property;
2. Any receipts received or obtained for mailing personal property; and
3. Signed IIS-1M Inmate Inventory Sheet(s).

Recodified from 10A:1-11.9 by R.1992 d.269, effective July 6, 1992.

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

Old section 10A:1-11.10 was "Written procedures".

Amended by R.1996 d.469, effective October 7, 1996.

See: 28 N.J.R. 3701(a), 28 N.J.R. 4481(a).

10A:1-11.11 Written procedures

Each correctional facility shall develop written policy and procedures consistent with this subchapter.

Recodified from 10A:1-11.10 by R.1992 d.269, effective July 6, 1992.

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