

TITLE 10A

DEPARTMENT OF CORRECTIONS

CHAPTER 1

ADMINISTRATION, ORGANIZATION AND
MANAGEMENT

Authority

N.J.S.A. 30:1B-6 and 30:1B-10; and the Americans with
Disabilities Act, 42 U.S.C. §§ 12101 et seq.

Source and Effective Date

R.2003 d.176, effective April 9, 2003.
See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, Administration,
Organization and Management, expires on October 6, 2008. Subchapter
3, Disability Discrimination Grievance Procedure, is exempt from ex-
piration under 28 C.F.R. Part 35. See: 40 N.J.R. 1736(b).

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, ef-
fective June 6, 1988. See: 20 N.J.R. 493(a), 20 N.J.R. 1222(c).

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

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration,
Organization and Management, was readopted as R.1992 d.269, ef-
fective 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, Re-
search; and Subchapter 11, Personal Property of Inmates, expired on
June 1, 1997.

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

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

Chapter 1, Administration, Organization and Management, was re-
adopted as R.2003 d.176, effective April 9, 2003. See: Source and
Effective Date. See, also, section annotations.

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

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

10A:1-1.1 Functions of the agency

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

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

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

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

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

Case Notes

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

10A:1-1.2 Procedure to petition for rulemaking

(a) 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 Supervisor, Administrative Rules Unit, Office of the Commissioner, 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.

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

Amended by R.2001 d.220, effective July 2, 2001.

See: 33 N.J.R. 1288(a), 33 N.J.R. 2290(a).

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

Administrative change.

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

10A:1-1.3 Public and inmate information requests

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

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

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

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

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

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

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

In (a), inserted "by assessing the official Department of Corrections website at www.state.nj.us/corrections," following "08625-0863".

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

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

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

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

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

Added (d).

10A:1-1.4 Reimbursement for costs of copying

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

- | | |
|-------------------------------|-----------------|
| 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 N.J.S.A. 47:1A-5, these changes shall be published as a notice of administrative change in the New Jersey Register.

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

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

Administrative change.

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

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 unless the context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Constant observation” means:

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

2. One minute interval surveillance of two inmates in adjacent cells by one staff member that shall be conducted in person or by video monitor when the video monitor provides continuous unobstructed vigilance of the inmates.

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

“Contraband” means:

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

2. Any item, article or material found within the facility or on its grounds which has not been issued by the correc-

tional 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.

“Counsel substitute” means an individual, such as an inmate paralegal, teacher or social worker, who represents and defends an inmate at a disciplinary hearing proceeding that is conducted within a correctional facility under the jurisdiction of the Department of Corrections.

“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 custody assignment of an inmate. There are six categories:

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

“Deadly force” means force which a custody staff member uses with the purpose of causing, or which the custody staff

member knows will create a substantial risk of causing, death or serious bodily harm.

“Department” means the New Jersey Department of Corrections.

“Departmental Research Review Board (DRRB)” means the members of a board, authorized by the Commissioner or designee, responsible for the review of requests to conduct research within the 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 U.S. Immigration and Customs Enforcement (ICE). 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 detention” shall mean removal of an inmate from the general population to a short-term close custody unit because of a disciplinary infraction(s).

“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 Programs and Community Services” means the agency within the Department of Corrections which is charged with 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 residential community programs such as halfway houses and the Work Release Program.

“DNA” means deoxyribonucleic acid.

“DNA sample” means a blood or other biological sample provided by any person pursuant to the DNA Database and Databank Act of 1994 (N.J.S.A. 53:1-20.17 et seq.).

“Domestic partner” or “partner” means a person who is in a relationship that satisfies the definition of a domestic partnership as set forth in the New Jersey “Domestic Partnership Act,” N.J.S.A. 26:8A-1 et seq.

“Electronic communication device” means a device or related equipment or peripheral that is capable of electronically receiving, transmitting or storing a message, image or data. Examples of such electronic devices include, but are not limited to, all types and sizes of a computer, telephone, two-way radio, camera or video/audio player/recorder, fax machine, pager or beeper, personal data assistant, hand-held e-mail system, or any other device containing a means of internet access or receiving, transmitting or storing information electronically by means of audio, visual or recorded data.

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

“Family member” means:

1. Spouse;
2. Domestic Partner;
3. Partner in a civil union couple;
4. Parent;
5. Stepparent;
6. Legal guardian;
7. Grandparent;
8. Child; or
9. Sibling.

“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 that is provided to inmates which contains site-specific correctional facility rules and procedures, and information about services and programs. An Inmate Handbook may also mean a unit-specific handbook when identified as such. Such unit-specific handbooks shall be provided to inmates who are assigned to certain units, such as, but not limited to, a Close Custody Unit.

“Inmate Liaison Committee” means an inmate group made up of inmate representatives, authorized by the correctional facility administration to act on behalf of the inmate population of the correctional facility. Such an inmate committee 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.

“Inmate Remedy System” means the comprehensive system through which an inmate may initially and formally submit a “Routine Inmate Request” and/or an “Interview Request” in order to obtain information, and to present issues, concerns, complaints in writing to the correctional facility staff. The Inmate Remedy System also includes an “Administrative Appeal” through which inmates are encouraged to formally appeal to the Administrator or designee the decision or finding rendered by correctional facility staff in regard to the “Routine Inmate Request” or “Interview Request” that was previously presented by the inmate. The comprehensive Inmate Remedy System consists of:

1. A “Routine Inmate Request”;
2. An “Interview Request”; and
3. An “Administrative Appeal.”

“Institutional Classification Committee (I.C.C.)” means the committee of correctional facility staff members responsible for monitoring an inmate’s progress and assigning the inmate to appropriate programs or activities. The I.C.C. may consist of subcommittees as deemed necessary.

“Institutional Classification Reception Committee (I.C.R.C.)” means the committee of staff members responsible for determining the initial custody status and correctional facility assignments of male inmates; the custody status and correctional facility assignments of male parole violators, escapees and Interstate Corrections Compact transferees; and for recommending inmates at the Central Reception and Assignment Facility (CRAF) who are considered appropriate for Protective Custody.

“Internal Management Procedures” means procedures that are issued by the correctional facility/unit Administrator or supervisor or designee to provide specific operating procedures for that particular correctional facility/unit.

“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 custodial confinement in a municipal detention facility, county correctional facility or a Department of Corrections facility.

“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, State, county and municipal courts;
5. Federal, State, county and municipal 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, State or county 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-contact visit” means a visit between an inmate and a visitor where there is a barrier, such as, but not limited to, a window or wall between the inmate and the visitor.

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

“Non-permissible property” means property that is not identified, or exceeds the permitted amount indicated on a list of permissible property. Examples of non-permissible property include, but are not limited to, an unauthorized item received by an inmate through the mail or from a source of sale, an item retained by the inmate who receives notice that such item has been deleted from the permissible property list, or an item the inmate has in his or her possession that was permitted in a certain unit or facility that is not permitted in another unit or facility.

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

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

4. History of correctional facility violence;
5. Prior felony convictions (initial only);
6. Education (initial only);
7. Employment (initial only);
8. Age;
9. Number of disciplinary reports (reclassification only);
10. Most severe disciplinary infraction received (reclassification only);
11. Program participation (reclassification only); and
12. 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.

“Personal information” means an individual’s first name or first initial and last name that is linked with any one or more of the following data elements:

1. Social Security number;
2. Driver’s license number or State identification card number; or
3. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

Dissociated data that, if linked, would constitute personal information is personal information if the means to link the dissociated data were accessed in connection with access to the dissociated data. Personal information shall not include publicly available information that is lawfully made available to the general public from Federal, state or local government records, or widely distributed media (see N.J.S.A. 56:8-161).

“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 residential community program, such as, but not limited to, medical, security, administration, disciplinary returns and parole hearing scheduling.

“Relative” means:

1. Parent;
2. Legal guardian;
3. Partner in a civil union couple;
4. Spouse;
5. Domestic partner;
6. Child; or
7. Sibling.

“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 holding the rank of Sergeant or higher 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 or designee.

"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.

"Staff" means all personnel who are hired by the Department of Corrections as employees.

"State" (upper case "S") means the State of New Jersey; "state" (lower case "s") means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

"State DNA Databank" means the repository of DNA samples collected under the provisions of the DNA Database and Databank Act of 1994 (N.J.S.A. 53:1-20.17 et seq.).

"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) 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.

"Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy" means a zero tolerance for the misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device that is not authorized for use or retention. This policy establishes that inmates who are found guilty of an electronic communication device related prohibited act as set forth in N.J.A.C. 10A:4-4.1, 5.1, and 12 shall have their contact visit privileges terminated and shall be ineligible for consideration for any custody status lower than medium custody until after the contact visit privileges are reinstated in addition to being subject to admin-

istrative 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".

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

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

Added "Business day(s)", "Calendar day(s)", "Immediate family" and "Internal Management Procedures"; rewrote "Capital Sentence Unit (C.S.U.)", "Constant observation", "Custody status", "Deadly force", "Division of Programs and Community Services", "Inmate handbook", "Lawfully confined" and "Regional institution"; in "Shift Commander", inserted "holding the rank of Sergeant or higher" following "custody staff member"; in "Special Investigations Division", inserted "or designee" following "Commissioner".

Amended by R.2004 d.180, effective May 3, 2004.

See: 36 N.J.R. 6(b), 36 N.J.R. 2241(b).

In "Institutional Classification Committee (I.C.C.)", substituted "committee of" for "group of staff members within a" and "staff members" for "that is" following "correctional facility"; rewrote "Inter-Institutional Classification Committee (I.I.C.C.)".

Amended by R.2004 d.395, effective October 18, 2004.

See: 36 N.J.R. 3225(b), 36 N.J.R. 4826(a).

Added "DNA", "DNA sample" and "State DNA Databank".

Emergency amendment, R.2005 d.435, effective November 15, 2005, (to expire on January 14, 2006).

See: 37 N.J.R. 4575(a).

Added definitions "Electronic communication device" and "Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy".

Adopted concurrent amendment, R.2006 d.58, effective January 11, 2006.

See: 37 N.J.R. 4575(a), 38 N.J.R. 993(a).

Provisions of R.2005, d.435, adopted without change.

Amended by R.2006 d.151, effective May 1, 2006.

See: 38 N.J.R. 96(a), 38 N.J.R. 1836(a).

At the end of the introductory paragraph, added "unless the context clearly indicates otherwise"; in the definition of "Detainer", substituted "U.S. Immigration and Customs Enforcement" for "Immigration and Naturalization Service"; rewrote the definition of "Inmate Liaison Committee"; in the definition for "Legal Correspondence", in 4 and 5, substituted a comma for "and", and inserted "county and municipal", and in 9, substituted a comma for "or", inserted "or county"; and added the definitions for "Non-contact visit" and "Staff".

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In definitions “Zero Tolerance Drug/Alcohol Policy” and “Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy”, updated N.J.A.C. references.

Amended by R.2007 d.17, effective January 16, 2007.

See: 38 N.J.R. 4159(a), 39 N.J.R. 216(a).

Inserted definitions “Domestic partner”, “Family member”, and “Relative”; and deleted definition “Immediate family”.

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

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

Added definition “Personal information”.

Amended by R.2007 d.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

Added definitions “Non-permissible property” and “State”.

Amended by R.2007 d.198, effective July 2, 2007.

See: 39 N.J.R. 834(b), 39 N.J.R. 2538(a).

Added definitions “Counsel substitute” and “Disciplinary detention”.

Amended by R.2007 d.199, effective July 2, 2007.

See: 39 N.J.R. 747(a), 39 N.J.R. 2537(a).

In definition “Detainer”, inserted “(ICE)”.

Amended by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Added definition “Departmental Research Review Board (DRRB)”.

Amended by R.2007 d.268, effective August 20, 2007.

See: 39 N.J.R. 1622(a), 39 N.J.R. 3539(a).

Added definition “Community Corrections Classification Committee (C-4)”.

Amended by R.2007 d.315, effective October 15, 2007.

See: 39 N.J.R. 2442(a), 39 N.J.R. 4402(a).

Added definitions “Civil union” and “Civil union couple”; in definition “Family member”, added new 3 and recodified former 3 through 8 as 4 through 9; and in definition “Relative”, added new 3 and recodified former 3 through 6 as 4 through 7.

Amended by R.2007 d.379, effective December 17, 2007.

See: 39 N.J.R. 2445(a), 39 N.J.R. 5340(b).

In definition “Institutional Classification Committee (I.C.C.)”, inserted the last sentence; substituted definition “Institutional Classification Reception Committee (I.C.R.C.)” for definition “Inter-Institutional Classification Committee (I.I.C.C.)”; and in definition “Objective classification”, deleted paragraphs 5 through 7, recodified former paragraphs 8 through 14 as 5 through 11, in paragraph 11, inserted “and” at the end, deleted paragraph 15, and recodified paragraph 16 as 12.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Deleted definition “Capital Sentence Unit (C.S.U.)”.

Amended by R.2008 d.171, effective June 16, 2008.

See: 39 N.J.R. 2188(a), 40 N.J.R. 3718(d).

Added definition “Inmate Remedy System”.

Case Notes

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

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

10A:1-2.3 Chief Executive Officer

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

10A:1-2.4 Rulemaking 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:

1. An undue hardship;
2. An inability to meet a therapeutic, rehabilitative or medical need; or
3. A security risk to the overall management, safe or orderly operation 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).

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

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

Rewrote (c).

10A:1-2.5 Expiration of rule exemptions

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

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

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

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

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

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

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

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

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

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

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

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

10A:1-2.7 Procedure for requesting rule exemptions

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

(b) Requests for rule exemptions may be submitted by inmates or inmate groups to the Institutional Classification

Committee (I.C.C.) for review. The I.C.C. shall review and submit inmate requests for rule exemptions to the Administrator along with recommendations for approval or disapproval.

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

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

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

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

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

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

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

Revised (d)-(h).

Administrative Correction in (e) and (f).

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

Administrative Change.

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

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

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

Substituted "Administrator" for "Superintendent" throughout.

10A:1-2.8 Forms

(a) The following form related to Administration, Organization and Management is available by accessing the Department of Corrections computer network (DOCNet). Interested

individuals who do not have access to DOCNet may obtain copies of this form by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 911 Request for Rule Exemption.

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

1. IIS-1M Inmate Inventory Sheet.

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

1. Americans with Disabilities Act Grievance Form 100.

Administrative change.

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

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

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

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

Administrative change.

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

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

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

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

Amended by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

In the introductory paragraph of (a), substituted “form” for “forms” two times, substituted “is” for “are” and inserted “this”; in (a)1, substituted a period for the semicolon at the end; and deleted (a)2 and (a)3.

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

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 the Department of Corrections or designee.

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

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

In “Designated decision maker”, substituted “of the Department of Corrections or designee” for “of Corrections or his or her designee” following “Commission”.

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.
See: 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.

SUBCHAPTER 4. INMATE REMEDY SYSTEM

10A:1-4.1 Purpose

(a) The purpose of this subchapter is to establish:

1. The comprehensive Inmate Remedy System in which inmates may formally communicate with correctional facility staff to request information from, and present issues, concerns, complaints or problems to the correctional facility staff. The Inmate Remedy System also includes an "Administrative Appeal" through which inmates are encouraged to formally appeal to the Administrator or designee the decision or finding rendered by correctional facility staff in regard to the "Routine Inmate Request" or "Interview Request" that was previously presented by the inmate. The Inmate Remedy System consists of:

- i. A "Routine Inmate Request";
- ii. An "Interview Request"; and
- iii. An "Administrative Appeal"; and

2. Provisions for the designation of correctional facility staff to manage and coordinate the Inmate Remedy System.

10A:1-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

"Coordinator of the Inmate Remedy System" or "Coordinator" means the staff member(s) designated by the Administrator to manage and coordinate the process and to oversee the handling of related forms and proceedings.

"Further deliberation" means additional time needed by correctional facility staff in order to further research, investigate or refer the issue presented by the inmate to a committee or another entity in order to provide a decision or finding to the inmate.

"Urgent request" means a request presented by the inmate upon IRSF—101 Inmate Remedy System Form in which the inmate expresses in writing a need for prompt action or response based upon a compelling, emergent or serious circumstance, state, condition or fact associated with the request.

10A:1-4.3 Forms

(a) The following forms related to this subchapter are printed by the Bureau of State Use Industries—DEPTCOR. Each correctional facility shall purchase a supply of these forms by contacting DEPTCOR:

1. IRSF—101 Inmate Remedy System Form; and
2. IRSF—102 Staff Response Form.

(b) The research request application package includes the following:

1. The Application Form to Request Review of a Research Protocol. This form requires:

- i. The title of the project;
- ii. The name and title of, and contact information for, the principal researcher and any other researchers;
- iii. A description of the research project to include the purpose;
- iv. The name of the agency or organization with which the researcher(s) is affiliated;
- v. Funding information;
- vi. Whether human subjects will be involved in the research and related information such as, but not limited to, age, gender, race and projected number of participants;
- vii. The Departmental sites and units involved;
- viii. Whether questionnaires, surveys, tests, or interviews will be used;
- ix. The use of documents, files or records;
- x. How data will be stored and secured when necessary;
- xi. Data disposition;
- xii. Projected research start and end dates;
- xiii. The conditions under which participation by the subject may be terminated by the researcher or subject, if relevant;
- xiv. A summary of the potential social impact, benefits and risks associated with the research project; and
- xv. Signatures of the principal researcher, any other researcher, supervisor or advisor as appropriate;

2. A Researcher Checklist. This checklist is designed to assist the researcher in the gathering of information necessary to complete the Application Form to Request Review of a Research Protocol and includes the information listed in (b) above, in addition to a list of items that must be provided by the researcher and appended to the completed application form, which includes but is not limited to:

- i. The informed consent that will be used;
 - ii. Copies of instruments to be used, such as, questionnaires, surveys or tests; and
 - iii. Copies of any letters, waivers or disclaimers related to the research project from the agency or organization with which the researcher is affiliated; and
3. Any additional information as may be required by the Department concerning a particular research project.

(c) The DRRB shall review the research request application package. This review shall consider whether or not the research will:

1. Adversely affect the maintenance of security and/or the orderly operation of the correctional facility or unit;
2. Create any risks to subjects of the research;
3. Involve the review of inmate records and adequately protect the confidentiality of certain data; and/or
4. Require inmate participation, such as an interview or to respond to questionnaires.

(d) In addition to the considerations set forth in (c) above, the DRRB shall review considerations that may arise pertaining to a specific research project.

(e) The DRRB shall make a recommendation for approval or disapproval to the Commissioner of the Department of Corrections. The Commissioner shall make the final approval or disapproval determination.

(f) The DRRB shall be responsible for providing notification of the final determination to the agency or entity requesting the research.

Administrative Correction.

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

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

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

Substituted "Administrator" for "Superintendent, Parole District Supervisor" and deleted references to parolees following references to inmates throughout.

Recodified from N.J.A.C. 10A:1-10.2 and amended by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Section was "Procedure for submitting a request to conduct non-medical, nonpharmaceutical and noncosmetic research projects". Rewrote the section. Former N.J.A.C. 10A:1-10.3, Express written inmate consent requirement, recodified to N.J.A.C. 10A:1-10.4.

10A:1-10.4 Express written inmate informed consent requirement

(a) The express written informed consent of the inmate shall be required:

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

(b) A written informed consent of an inmate to directly participate in a research activity shall be required and signed by:

1. The inmate;
2. A witness and/or legal representative when deemed necessary; and
3. The principal researcher.

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

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

In (a)2, amended the N.J.A.C. reference; in (b)3, substituted "Administrator" for "Superintendent, Parole District Supervisor"; deleted references to parolees following references to inmates throughout.

Recodified from N.J.A.C. 10A:1-10.3 and amended by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Section was "Express written inmate consent requirement". In the introductory paragraph of (a), inserted "informed"; rewrote the introductory paragraph of (b); in (b)2, inserted "and/or legal representative when deemed necessary"; and in (b)3, substituted "principal researcher" for "correctional facility Administrator, community program supervisor, or operational unit supervisor". Former N.J.A.C. 10A:1-10.4, Refusal to participate in research, recodified to N.J.A.C. 10A:1-10.5.

10A:1-10.5 Refusal to participate in research

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

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

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

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

Deleted "or parolee" following "inmate" throughout.

Recodified from N.J.A.C. 10A:1-10.4 by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Former N.J.A.C. 10A:1-10.5, Inmate/parolee records, recodified to N.J.A.C. 10A:1-10.6.

10A:1-10.6 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.

Recodified from N.J.A.C. 10A:1-10.5 by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Former N.J.A.C. 10A:1-10.6, Research findings, recodified to N.J.A.C. 10A:1-10.7.

10A:1-10.7 Research findings

The persons(s) or agency(s) who completes a research project must, prior to publication or any dissemination, make available the research findings or the results to the correctional facility Administrator, community program supervisor,

or operational unit supervisor and the Commissioner, New Jersey Department of Corrections, for review and comments.

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

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

Substituted "Administrator" for "Superintendent, Parole District Supervisor".

Recodified from N.J.A.C. 10A:1-10.6 by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Former N.J.A.C. 10A:1-10.7, Written internal management procedures, recodified to N.J.A.C. 10A:1-10.8.

10A:1-10.8 Written internal management procedures

(a) Each correctional facility Administrator, community program supervisor, operational unit supervisor, and the appropriate Assistant Commissioner shall ensure the development of written internal management procedures governing research projects and activities consistent with the requirements of this subchapter.

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

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

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

In (a), substituted "Administrator" for "Superintendent" following "Each correctional facility", inserted "appropriate" following "operational unit supervisor, and the" and deleted "Division of Parole and Community programs," following "Commissioner"; in (b), substituted "written internal management procedures" for "written procedures" and "Administrator" for "Superintendent, Parole District Supervisor".

Recodified from N.J.A.C. 10A:1-10.7 by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

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 posted 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 Administrator 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 Assistant Commissioner or designee 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).

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

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

In (d), substituted "Administrator" for "Superintendent"; in (g), substituted "Assistant Commissioner or designee" for "Chief, Bureau of Community and Professional Services."

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, family members or a home address, the inmate may request written approval of the Administrator to store non-permissible personal property for a period longer than 60 calendar days.

(c) If the Administrator 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.

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

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

In (b) and (c), substituted "Administrator" for "Superintendent".

Amended by R.2007 d.17, effective January 16, 2007.

See: 38 N.J.R. 4159(a), 39 N.J.R. 216(a).

In (b), deleted "immediate" preceding "family members".

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, personal property shall be inventoried in the presence of the inmate.

(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).

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

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

Rewrote (b).

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

(a) Central Medical/Transportation shall be responsible for transporting inmate personal property within the State. 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 within the State, the sending correctional facility shall be responsible for sending all of the inmate's personal property.

(d) When an inmate is transferred from one correctional facility to another within the State, the receiving correctional facility shall be responsible for inventorying, packaging and mailing any non-permissible personal property to the inmate's home, 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 within the State who does not have visitors, family members or a home address, may request written approval of the receiving correctional facility Administrator to store the inmate's non-permissible personal property.

(f) If the Administrator of the correctional facility within the State approves the inmate's request, the Administrator 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) When an inmate is transferred to another state, personal property shall be handled as follows:

1. The shipment of personal property for non-consensual transfers shall be at the expense of the sending correctional facility; or
2. The shipment of personal property in consensual transfers that are requested by the inmate for personal reasons, such as, but not limited to, programmatic opportunities or family reasons, shall be at the expense of the inmate.

(h) Inmates approved for international transfer shall be responsible for the shipping expenses and disposition of their personal property prior to transfer.

(i) Disposition of personal property shipped shall be in accordance with the rules of the receiving state or country.

(j) 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, mail or parcel service center 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).

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

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

In (e) and (f), substituted "Administrator" for "Superintendent"; in (g), inserted ", mail or parcel service center" following "post office".
Amended by R.2007 d.17, effective January 16, 2007.
See: 38 N.J.R. 4159(a), 39 N.J.R. 216(a).

In (e), deleted "immediate" preceding "family members".
Amended by R.2007 d.127, effective May 7, 2007.
See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

In (a), substituted "inmate personal property within the State" for "personal property of inmates"; rewrote (c) and (d); in (e), inserted "within the State"; rewrote the introductory paragraph of (f); added new (g), (h), and (i); and recodified former (g) as (j).

10A:1-11.8 Responsibility for personal property when an inmate is released from custody of the Department of Corrections

(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).
Amended by R.2007 d.127, effective May 7, 2007.
See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

Section was "Responsibility for personal property when an inmate is released".

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 Responsibility for personal property when an inmate dies

When an inmate dies, personal property shall be distributed in accordance with the provisions set forth in N.J.A.C. 10A:16-7.6, Distribution of money and personal belongings of deceased inmates.

New Rule, R.2007 d.127, effective May 7, 2007.
See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).
Former N.J.A.C. 10A:1-11.10, Records, recodified to N.J.A.C. 10A:1-11.11.

10A:1-11.11 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).

Recodified from N.J.A.C. 10A:1-11.10 by R.2007 d.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

Former N.J.A.C. 10A:1-11.11, Written internal management procedures, recodified to N.J.A.C. 10A:1-11.12.

10A:1-11.12 Written internal management procedures

Each correctional facility shall develop written internal management 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).

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

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

Substituted "written internal management procedures" for "written policy and procedures".

Recodified from N.J.A.C. 10A:1-11.11 by R.2007 d.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).