

“Close custody unit” shall mean an area within a facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons.

“Commissioner” shall mean the Commissioner of the New Jersey Department of Corrections.

“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 which is conducted within a correctional facility under the jurisdiction of the Department of Corrections.

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

“Department” shall mean the New Jersey 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” shall mean a Department staff member designated to hear and adjudicate inmate violations of prohibited acts.

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

“Disciplinary Sanction” shall mean a prescribed penalty that is imposed for violation of a prohibited act.

“Extra duty” shall mean a task(s) other than those related to an inmate’s work or program assignment(s) to which an inmate has been assigned as a result of a violation of a prohibited act.

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

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

“Institutional Classification Committee” (I.C.C.) shall mean the body within a correctional facility that is responsible for monitoring an inmate’s progress and assigning him/her to appropriate programs or activities.

“Inter-Institutional Classification Committee” (I.I.C.C.) shall mean the body, composed of representatives from different correctional facilities, that is responsible for deter-

mining the correctional facility to which an inmate is assigned and approving requests for transfer from one correctional facility to another.

“Major violations” shall mean the violation of a prohibited act that is preceded by an asterisk.

“Minor violations” shall mean the violation of a prohibited act that is not preceded by an asterisk.

“On-the-Spot Correction” shall mean the immediate imposition of a sanction upon an inmate for the violation of a minor prohibited act.

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

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

“Prohibited acts” shall mean conduct in violation of rules and regulations, which will result in imposition of sanctions.

“Special Classification Committee (S.C.C.)” shall mean the body composed of representatives from the Prison Complex, Youth Complex and Juvenile Services, Division of Operations, which consider the transfer of inmates between complexes.

“Youth Complex” shall mean state correctional facilities designated to house inmates between the ages of 15 and 26 years, who have not previously been sentenced to a state prison in this State or in any other state.

Amended by R.1991 d.276, effective June 3, 1991.  
See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Added definitions for “administrative close supervision unit”, “Capital sentence unit” and “counsel substitute”; amended definition for “superintendent”.

Amended by R.1994 d.182, effective April 4, 1994.  
See: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Deleted “Superintendent” and “Vroom Readjustment Unit”, added “Inmate handbook”, and amended “Extra duty”, “Handbook on Discipline” and “Special Classification Committee”.

#### 10A:4-1.4 Forms

(a) The following forms related to Inmate Discipline are printed by the Bureau of State Use Industries—DEPTCOR and each correctional facility shall purchase a supply of these forms by contacting the Bureau.

1. 254-I Discipline Record Card;
2. 259 Disciplinary Report;
3. 259A Adjudication of Disciplinary Report.

(b) The following forms related to Inmate Discipline shall be reproduced by each correctional facility from originals

that are available by contacting the Standards Development Unit.

1. 251-I Chronic Violator Notice;
2. 251-II Chronic Violator Adjudication Notice;
3. 253-I On-The-Spot Disciplinary Report/Adjudication;
4. 255-I Authorization for Prehearing Detention;
5. 256-I Appeal of Disciplinary Decision;
6. 256-II Disposition of Disciplinary Appeal.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

## SUBCHAPTER 2. PUBLICATION OF RULES

### 10A:4-2.1 Notification of inmates about rules and regulations

(a) At the time of reception into the New Jersey Department of Corrections, each inmate shall receive a copy of the Handbook on Discipline and thereby be advised in writing of his or her rights and responsibilities, the acts and activities which are prohibited, the rules which must be followed and the disciplinary process within the correctional facilities of the Department of Corrections. Each inmate shall be required to sign a form acknowledging receipt of the Handbook on Discipline. A refusal by the inmate to sign shall be noted on the form by the issuing staff member.

(b) At the time of arrival at a correctional facility, each inmate shall receive a copy of the correctional facility Inmate Handbook which contains correctional facility rules, procedures and information about services and programs. The correctional facility Inmate Handbook shall be provided as part of the admission-orientation program in accordance with N.J.A.C. 10A:8. Each inmate shall be required to sign a form acknowledging receipt of the correctional facility Inmate Handbook. A refusal by the inmate to sign shall be noted on the form by the issuing staff member.

(c) All changes in disciplinary rules shall be posted in housing units and other areas of the correctional facility and incorporated into the next revision of the Handbook on Discipline and when appropriate, in the correctional facility Inmate Handbook.

(d) When a correctional facility has a large number of inmates in the population who speak a foreign language, the rules shall be printed and presented verbally in the foreign language.

Amended by R.1991 d.276, effective June 3, 1991.

See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Corrected internal N.J.A.C. cite to Handbook.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

### 10A:4-2.2 Review of inmate rules

The Superintendent of the correctional facility shall be responsible for maintaining an ongoing rule review process to ensure that the rules are current and appropriate.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

### 10A:4-2.3 Promulgation of rules

(a) The rules of a correctional facility shall be published and promulgated only upon the approval of the Superintendent.

(b) The disciplinary rules shall be published and promulgated only upon the approval of the Commissioner, New Jersey Department of Corrections.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Added requirement of approval by Commissioner.

#### Case Notes

Department of Corrections is not exempt from the requirements of the Administrative Procedure Act (citing rule proposal at 18 N.J.R. 27(a)). Dep't of Corrections v. McNeil, 209 N.J.Super. 120, 506 A.2d 1291 (App.Div.1986) certification denied 104 N.J. 422, 517 A.2d 418 (1986).

## SUBCHAPTER 3. INMATE RIGHTS AND RESPONSIBILITIES

### 10A:4-3.1 Notification of inmates of their rights and responsibilities

(a) The following rights are found in the Handbook on Discipline which is provided to each inmate as part of reception into the Department of Corrections.

1. You have the right to be treated respectfully, impartially and fairly by all personnel.
2. You have the right to be informed of the rules, procedures and schedules concerning the operation of the correctional facility.
3. You have the right to freedom of religious affiliation and voluntary religious worship within the correctional facility.

4. You have the right to health care which includes nutritious meals, proper bedding and clothing, a laundry schedule for cleanliness of same, an opportunity to shower regularly, sufficient warmth, proper ventilation, fresh air, a regular exercise period, toilet articles and medical and dental treatment.

5. You have the right to correspond with and receive visits from family members, friends and other persons where there is no threat to security or order in keeping with the rules and schedules of the correctional facility.

6. You have the right to unrestricted and confidential access to the courts by correspondence.

7. You have the right to legal counsel from an attorney of your choice by interviews and correspondence. You have the right to receive help when it is available through a legal assistance program.

8. You have the right to participate in the use of law library reference materials to assist you in resolving legal problems.

9. You have the right to a wide range of reading material for educational purposes and for your own enjoyment.

10. You have the right to participate in counseling, education, vocational training, and employment as far as resources are available and in keeping with your interests, needs and abilities.

(b) The following responsibilities are found in the Handbook on Discipline which is provided to each inmate as a part of reception into the Department of Corrections.

1. You have the responsibility to treat others, both employees and inmates, respectfully, impartially and fairly.

2. You have the responsibility to know and abide by the rules, procedures and schedules concerning the operation of the correctional facility.

3. You have the responsibility to recognize and respect the rights of others to freedom of religious affiliation and voluntary religious worship within the correctional facility.

4. It is your responsibility to follow the laundry and shower schedules, to maintain neat and clean living quarters, to seek medical and dental care as you may need it, and not to waste food.

5. It is your responsibility to conduct yourself properly during visits, to refuse to accept or pass contraband, and to comply with Department rules and State or Federal laws through your correspondence.

6. You have the responsibility to present honestly and fairly your petitions, questions and problems to the court.

7. It is your responsibility to use the services of an attorney honestly and fairly.

8. It is your responsibility to use the law library resources in keeping with the correctional facility procedures and schedule prescribed and to respect the rights of other inmates in the use of this legal material.

9. It is your responsibility to seek and utilize reading material for your personal benefit, without depriving others of their right to use same.

10. You have the responsibility to take advantage of activities (such as counseling, education, vocational training and employment) which may help you live a successful and law abiding life within the correctional facility and in the community. You will be expected to abide by the regulations governing the use of such activities.

Administrative Correction: Responsibilities have been substantially amended.

See: 19 N.J.R. 1573(a).

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

## SUBCHAPTER 4. INMATE PROHIBITED ACTS

### 10A:4-4.1 Prohibited acts

(a) An inmate who commits one or more of the following numbered prohibited acts shall be subject to disciplinary action and a sanction that is imposed by a Disciplinary Hearing Officer or Adjustment Committee with the exception of those violations disposed of by way of an on-the-spot correction. Prohibited acts preceded by an asterisk are considered the most serious and result in the most severe sanctions (See N.J.A.C. 10A:4-5, Schedule of Sanctions for Prohibited Acts).

- \*.001 killing
- \*.002 assaulting any person
- \*.003 assaulting any person with a weapon
- \*.004 fighting with another person
- \*.005 threatening another with bodily harm or with any offense against his or her person or his or her property
- \*.006 extortion, blackmail, protection: demanding or receiving favors, money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing
- \*.007 hostage taking
- \*.008 abuse/cruelty to animals
- \*.009 misuse of electronic equipment and/or computer(s) and/or related device(s) and peripheral(s)
- \*.010 participating in an activity(ies) related to a security threat group
- \*.011 possession or exhibition of anything related to a security threat group
- \*.050 sexual assault
- .051 engaging in sexual acts with others
- .052 making sexual proposals or threats to another
- .053 indecent exposure
- \*.054 refusal to register as a sex offender
- \*.101 escape

- \*.102 attempting or planning escape
- .103 wearing a disguise or mask
- \*.150 tampering with fire alarms, fire equipment or fire suppressant equipment
- \*.151 setting a fire
- .152 destroying, altering, or damaging government property, or the property of another person
- stealing (theft)
- \*.153 tampering with or blocking any locking device
- \*.154 adulteration of any food or drink
- \*.201 possession or introduction of an explosive, incendiary device or any ammunition
- \*.202 possession or introduction of a gun, firearm, weapon, sharpened instrument, knife or unauthorized tool
- \*.203 possession or introduction of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff
- \*.204 use of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff
- \*.205 misuse of authorized medication
- .206 possession of money or currency (\$50.00 or less) unless specifically authorized
- \*.207 possession of money or currency (in excess of \$50.00) unless specifically authorized
- .208 possession of property belonging to another person
- .209 loaning of property or anything of value
- .210 possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels
- .211 possessing any staff member's clothing and/or equipment
- .212 possessing unauthorized clothing
- .213 mutilating or altering clothing issued by the government
- \*.214 possession of unauthorized keys or other security equipment
- \*.251 rioting
- \*.252 encouraging others to riot
- \*.253 engaging in, or encouraging, a group demonstration
- .254 refusing to work, or to accept a program or housing unit assignment
- \*.255 encouraging others to refuse to work or to participate in work stoppage
- .256 refusing to obey an order of any staff member
- .257 violating a condition of any community release program
- \*.258 refusing to submit to urine analysis
- \*.259 refusing to submit to breathalyzer testing
- \*.260 refusing to submit to mandatory medical testing
- \*.261 tampering with a urine specimen
- .301 unexcused absence from work or any assignment; being late for work
- .302 malingering, feigning an illness
- .303 failing to perform work as instructed by a staff member
- .304 using abusive or obscene language to a staff member
- .305 lying, providing a false statement to a staff member
- \*.306 conduct which disrupts or interferes with the security or orderly running of the correctional facility
- .351 counterfeiting, forging or unauthorized reproduction or use of any document not enumerated in prohibited act .352
- \*.352 counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document
- .401 participating in an unauthorized meeting or gathering
- .402 being in an unauthorized area
- .451 failure to follow safety or sanitation regulations
- .452 using any equipment or machinery which is not specifically authorized
- .453 using any equipment or machinery contrary to instructions or posted safety standards
- .501 failing to stand count
- .502 interfering with the taking of count
- \*.551 making or possessing intoxicants or alcoholic beverages
- \*.552 being intoxicated
- .553 smoking where prohibited
- .601 gambling
- .602 preparing or conducting a gambling pool
- .603 possession of gambling paraphernalia
- .651 being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards
- .652 tattooing or self mutilation
- .701 unauthorized use of mail or telephone
- .702 unauthorized contacts with the public
- .703 correspondence or conduct with a visitor in violation of regulations
- \*.704 perpetrating frauds, deceptions, confidence games, riots or escape plots
- .705 commencing or operating a business or group for profit or commencing or operating a non-profit enterprise without the approval of the Superintendent
- .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Superintendent
- .707 failure to keep a scheduled appointment with medical, dental or other professional staff
- \*.708 refusal to submit to a search
- .709 failure to comply with a written rule or regulation of the correctional facility
- \*.751 giving or offering any official or staff member a bribe or anything of value
- .752 giving money or anything of value to, or accepting money or anything of value from, another inmate
- .753 purchasing anything on credit
- .754 giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose
- .802 attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself

- \*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself

Notice of Correction: Asterisk was omitted for \*.306.

See: 18 N.J.R. 2138(d).

Amended by R.1987 d.154, effective April 6, 1987.

See: 19 N.J.R. 178(a), 19 N.J.R. 534(a).

Added \*.008 abuse/cruelty to animals.

Notice of Correction: .352 was omitted from the end of .351.

See: 19 N.J.R. 1658(c).

Amended by R.1991 d.276, effective June 3, 1991.

See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Added .150 and amended \*.151.

Administrative Corrections in (a): In .150 corrected suppressant.

See: 24 N.J.R. 2731(a).

Amended by R.1993 d.488, effective October 4, 1993.

See: 25 N.J.R. 3416(a), 25 N.J.R. 4599(a).

Administrative Correction.

See: 26 N.J.R. 1228(a).

Amended by R.1994 d.254, effective May 16, 1994.

See: 26 N.J.R. 1286(a), 26 N.J.R. 2129(a).

Amended by R.1994 d.264, effective June 6, 1994.

See: 26 N.J.R. 1287(a), 26 N.J.R. 2285(b).

Amended by R.1995 d.237, effective May 1, 1995.

See: 27 N.J.R. 436(a), 27 N.J.R. 1801(c).

Amended by R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).

See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).

In (a) added refusing a breathalyzer test.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

In (a) added exception for on-the-spot corrections, in .254 added refusal of housing unit assignment, and deleted provision for transfer to the Vroom Readjustment Unit.

Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking.

See: 29 N.J.R. 813(b), 29 N.J.R. 948(a).

Amended by R.1997 d.225, effective June 2, 1997.

See: 29 N.J.R. 834(a), 29 N.J.R. 2562(b).

In (a), inserted “\*.260 refusing to submit to mandatory medical testing”.

Amended by R.1997 d.276, effective July 7, 1997.

See: 29 N.J.R. 1663(a), 29 N.J.R. 2836(a).

In Schedule of Prohibited Acts, added .261 (tampering with a urine specimen).

Amended by R.1997 d.325, effective August 4, 1997.

See: 29 N.J.R. 2542(a), 29 N.J.R. 3452(a).

In (a), upgraded .150 (tampering with fire alarms, fire equipment or fire suppressant equipment) and .154 (tampering with or blocking any locking device) into asterisk offenses.

Amended by R.1998 d.366, effective July 20, 1998.

See: 30 N.J.R. 1719(a), 30 N.J.R. 2619(a).

Inserted new prohibited acts .010 and .011.

#### Cross References

Possession of inter-office envelopes, see N.J.A.C. 10A:18-2.26, 10A:18-3.13.

#### Case Notes

Punishment of Christian Scientist inmate who refused to submit to tuberculosis test furthered compelling state interest in preventing spread of tuberculosis in prison, as would justify such test's substantial burden on inmate's right of free exercise of religion under Religious Freedom Restoration Act. *Karolis v. New Jersey Dept. of Corrections*, D.N.J. 1996, 935 F.Supp. 523.

Standard embodied in inmate disciplinary rule prohibiting using abusive or obscene language to staff member was not valid basis for

imposing disciplinary punishment for inmate's vulgar and offensive statement in context of psychotherapy that was not threatening or exhortative of disobedience or violence. *Pryor v. New Jersey Dept. of Corrections*, 288 N.J.Super. 355, 672 A.2d 717 (A.D.1996).

Amendment to administrative code that added refusal to register as sex offender to list of prohibited acts was not unconstitutional. *A.F. v. Fauver*, 287 N.J.Super. 354, 671 A.2d 155 (A.D.1996).

Determination whether remark constitutes threat; objective analysis whether remark conveys basis for fear. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Finding that inmate threatened guard with bodily harm was supported by evidence. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Prison officials' decision to place inmate in nonpunitive management control unit was supported by record. *Taylor v. Beyer*, 265 N.J.Super. 345, 627 A.2d 166 (A.D.1993).

State prison sanctions for infractions only applicable if county inmate notified of infractions. *Bryan v. Department of Corrections*, 258 N.J.Super. 546, 610 A.2d 889 (A.D.1992).

Procedural safeguards not properly applied in prison disciplinary proceeding involving confidential informant. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

Information provided by confidential informant for use in prison disciplinary hearing must be part of confidential record. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

New prison disciplinary hearing required when procedural safeguards were absent in first hearing or in presence of newly discovered evidence. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D. 1990).

#### 10A:4-4.2 Reports to the prosecutor on prohibited acts

All prohibited acts which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) shall be referred to the prosecutor of the county in which the correctional facility is located. (See N.J.A.C. 10A:21 Reporting Violations of the Criminal Statutes.)

### SUBCHAPTER 5. SCHEDULE OF SANCTIONS FOR PROHIBITED ACTS

#### 10A:4-5.1 Schedule of sanctions for prohibited acts committed at the Prison Complex

(a) A finding of guilt for any offense preceded by an asterisk (\*) shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Administrative Segregation for a specified time not to exceed one year, subject to confirmation by the Institutional Classification Committee;
4. Loss of commutation time up to 365 days, subject to confirmation by the Superintendent;

5. Loss of furlough privileges for up to two months;
6. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days;
7. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);
8. Confiscation;
9. Up to 14 hours extra duty, to be performed within a maximum of two weeks; and/or
10. Up to two weeks confinement to room or housing area.

(b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Up to 60 days loss of commutation time, subject to confirmation by the Superintendent;
4. Administrative Segregation for a specified time not to exceed 90 days subject to confirmation by the Institutional Classification Committee;
5. Loss of furlough privileges for up to two months;
6. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days;
7. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);
8. Confiscation;
9. Up to 14 hours extra duty, to be performed within a maximum of two weeks; and/or
10. Up to two weeks confinement to room or housing area.

(c) Pursuant to the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2, a finding of guilt to any of the following prohibited acts shall result in termination of contact visit privileges:

1. \*.203 possession or introduction of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff;
2. \*.204 use of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff;
3. \*.205 misuse of authorized medication (such as narcotics and controlled dangerous substances);
4. \*.258 refusing to submit to urine analysis;

5. \*.259 refusing to submit to breathalyzer testing;
6. \*.261 tampering with a urine specimen;
7. \*.551 making or possessing intoxicants or alcoholic beverages;
8. \*.552 being intoxicated;
9. \*.708 refusal to submit to a search (when the search is being conducted due to reasonable suspicion related to drug/alcohol possession, sale or use); and
10. \*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself.

(d) In addition to the sanctions in (a), (b) and (c) above, administrative action may be taken by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Superintendent. Such administrative action may include, but not be limited to, the following:

1. Recommending transfer to a more appropriate correctional facility. (This shall be subject to confirmation by the Inter-Institutional Classification Committee.);
2. Increasing custody status;
3. Changing work or housing assignments;
4. Assigning to a treatment program;
5. Assessing restitution for damage, alteration or destruction of State property, the property of another person, or violation of prohibited act .707 which results in undue expenditure of State funds;
6. Recommending loss of telephone, radio, television, and contact visit privileges for up to one year;
7. Disposal of an item(s) in accordance with the provisions of N.J.A.C. 10A:3-6.3(b)2, 3 and 4; and/or
8. For New Jersey State Prison only: placing in a "DRY" cell during prehearing and lockup status.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1991 d.276, effective June 3, 1991.

See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Added sanctions of up to 14 hrs. extra duty and up to 2 weeks of confinement to room or housing area.

Amended by R.1993 d.584, effective November 15, 1993.

See: 25 N.J.R. 4435(a), 25 N.J.R. 5169(a).

Amended by R.1994 d.254, effective May 16, 1994.

See: 26 N.J.R. 1286(a), 26 N.J.R. 2129(a).

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Deleted reference to the Adult Diagnostic and Treatment Center and the Edna Mahan Correctional Facility for Women, in (c)5 added damage to property of another person, and in (c)6 added loss of telephone, radio and television privileges.

Administrative correction.

See: 29 N.J.R. 2563(a).

In (c)7, changed N.J.A.C. reference.

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

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

Added a new (c); and rewrote and recodified former (c) as (d).

**10A:4-5.2 Schedule of sanctions for prohibited acts committed at the Youth Complex**

(a) A finding of guilt for prohibited acts preceded by an asterisk (\*) shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Up to two weeks confinement to room or housing area;
3. Up to 30 days loss of one or more correctional facility privileges;
4. Up to 14 hours extra duty, to be performed within a maximum of two weeks;
5. Loss of furlough privileges for up to two months;
6. Confiscation;
7. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);
8. Administrative Segregation for a specific term not to exceed one year subject to confirmation by the Institutional Classification Committee (for transfer to prison complex, confirmation by Central Office Special Classification Committee is required);
9. Loss of commutation time up to 365 days, subject to confirmation by the Superintendent (Inmates serving indeterminate sentences are not subject to this sanction, but inmates housed in the youth complex who are serving prison terms are subject to this sanction); and/or
10. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days.

(b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:

1. Up to 15 days Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 days;
3. Up to 60 days loss of commutation time subject to confirmation by the Superintendent (inmates serving prison terms);
4. Administrative Segregation for a specified time not to exceed 90 days subject to confirmation by the Institutional Classification Committee (does not include transfer to the Prison Complex);
5. Up to two weeks confinement to room or housing area;

6. Up to 14 hours extra duty, to be performed within a maximum of two weeks;

7. Loss of furlough privileges for up to two months;

8. Confiscation;

9. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7); and/or,

10. Suspension of one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days.

(c) Pursuant to the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2, a finding of guilt to any of the following prohibited acts shall result in termination of contact visit privileges:

1. \*.203 possession or introduction of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff;
2. \*.204 use of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff;
3. \*.205 misuse of authorized medication (such as narcotics and controlled dangerous substances);
4. \*.258 refusing to submit to urine analysis;
5. \*.259 refusing to submit to breathalyzer testing;
6. \*.261 tampering with a urine specimen;
7. \*.551 making or possessing intoxicants or alcoholic beverages;
8. \*.552 being intoxicated;
9. \*.708 refusal to submit to a search (when the search is being conducted due to reasonable suspicion related to drug/alcohol possession, sale or use); and
10. \*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself.

(d) In addition to the sanctions in (a), (b) and (c) above, administrative action may be taken by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Superintendent. Such administrative action may include, but not be limited to, the following:

1. Changing work, time, housing or program;
2. Assigning to a treatment program;
3. Assessing restitution for damage, alteration or destruction of State property, the property of another person, or a violation of prohibited act .707 which results in undue expenditure of State funds;

4. Recommending transfer to a more appropriate correctional facility (subject to confirmation by the Special Classification Committee or the Reception Classification Committee);

5. Increasing custody status;

6. Recommending loss of telephone, radio, television, and contact visit privileges for up to one year; and/or

7. Disposal of an item(s) in accordance with the provisions of N.J.A.C. 10A:3-6.4(b)2, 3 and 4.

Amended by R.1987 d.155, effective April 6, 1987.  
See: 19 N.J.R. 178(b), 19 N.J.R. 534(b).

Added new (b)3; recodified old (b)3.-8. to (b)4.-9.  
Amended by R.1991 d.276, effective June 3, 1991.  
See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Language added to clarify to whom the loss of commutation time applies; added recommending loss of privileges at (c)5.  
Amended by R.1993 d.584, effective November 15, 1993.

See: 25 N.J.R. 4435(a), 25 N.J.R. 5169(a).  
Amended by R.1994 d.254, effective May 16, 1994.  
See: 26 N.J.R. 1286(a), 26 N.J.R. 2129(a).  
Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

In (c)3 added damage to property of another person, and in (c)6 added loss of telephone, radio and television privileges.  
Amended by R.1998 d.526, effective November 2, 1998.  
See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

Added a new (c); and rewrote and recodified former (c) as (d).

#### 10A:4-5.3 Limitation on sanctions

(a) All disciplinary charges pending when the inmate begins his or her time in Disciplinary Detention must be adjudicated prior to the completion of his or her Disciplinary Detention time. No inmate may receive more than 15 days in Disciplinary Detention as a result of a single disciplinary charge except as established in N.J.A.C. 10A:4-6, Chronic Violator.

1. If an inmate is found guilty of more than one disciplinary charge arising out of one incident, he/she may receive up to 15 days for each disciplinary charge provided that the total time to be served in Disciplinary Detention does not exceed 30 days.

2. If an inmate is found guilty of more than one disciplinary charge arising out of separate incidents and occurring before the inmate begins serving time in Disciplinary Detention, the inmate may receive up to 15 days for each disciplinary charge provided that the total time to be served in Disciplinary Detention does not exceed 30 days.

3. If an inmate receives one or more disciplinary charges while serving in Disciplinary Detention, he/she may receive up to 15 additional days in Disciplinary Detention per charge provided that the total time in Disciplinary Detention does not exceed a total of 30 days.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

In (a) added exception as established in 10A:4-6.  
Recodified from N.J.A.C. 10A:4-5.4 by R.1998 d.526, effective November 2, 1998.

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

Former N.J.A.C. 10A:4-5.3 was repealed. Section was "Schedule of sanctions for prohibited acts committed at the New Jersey Training School for Boys and the Juvenile Medium Security Facility".

#### 10A:4-5.4 (Reserved)

Recodified to N.J.A.C. 10A:4-5.3 by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).  
Section was "Limitation on Sanctions".

### SUBCHAPTER 6. CHRONIC VIOLATOR

#### 10A:4-6.1 Scope

The rules in this subchapter apply to all inmates serving prison sentences within the Division of Operations.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Rewrote section.

#### 10A:4-6.2 Criteria for designating a chronic violator

An inmate may be designated a chronic violator if, while currently serving the maximum time in detention (30 days), the inmate continues to exhibit seriously assaultive or destructive behavior such as to constitute a continuing danger to other persons, and where alternative disciplinary sanctions or housing assignments would be inappropriate or ineffective.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Substituted detention for lockup.

#### 10A:4-6.3 Procedures for designation of a chronic violator

(a) Disciplinary charges lodged against an inmate during the time he or she is currently serving a 30 day term for other disciplinary violations shall be given directly to the administrator in charge of the Administrative Close Supervision Unit (ACSU). A copy of each charge shall be given to the inmate within 48 hours unless there are exceptional circumstances.

(b) The administrator in charge of the Administrative Close Supervision Unit (ACSU) shall be responsible for ordering that each charge be investigated and the administrator shall review each charge and investigation to personally obtain all relevant information.

**SUBCHAPTER 8. ADJUSTMENT COMMITTEE  
OR DISCIPLINARY HEARING OFFICER**

nated by the Commissioner or a Committee of three staff members designated by the Superintendent.

**10A:4-8.1 Adjustment Committee or Disciplinary Hearing Officer**

The disciplinary hearing within a correctional facility shall be conducted by either a Disciplinary Hearing Officer desig-

**10A:4-8.2 Designation of an Adjustment Committee**

(a) The Superintendent shall have the authority to designate an Adjustment Committee only at those correctional facilities where the Commissioner has not designated a Disciplinary Hearing Officer to perform such function, or in extraordinary circumstances when a Disciplinary Hearing Officer is not available.

(b) The Superintendent may appoint persons to serve permanently, or may rotate members, or appoint one or more members to serve permanently and rotate other members.

(c) The Superintendent shall designate one of the Committee members to serve as Chairperson. The Chairperson shall be the presiding officer and he/she shall have the responsibility for the proper operation of the Committee.

**10A:4-8.3 Composition of the Adjustment Committee**

(a) The Adjustment Committee, other than the Capital Sentence Unit, shall be composed of at least three persons which shall include:

1. A supervisory correctional officer of the rank of Captain or above (or a Lieutenant in case of a Captain's absence);
2. A correctional facility supervisor from the medical, administrative, social work, educational or treatment staff; and
3. A civilian line staff member.

(b) The Adjustment Committee of the Capital Sentence Unit (C.S.U.) shall consist of three members of the Unit Management Team. They are:

1. A Lieutenant in charge of the Unit;
2. A social worker; and
3. A psychologist.

(c) A staff member shall not sit as a member of the Adjustment Committee if the Committee is hearing an incident that the staff member has reported and/or investigated.

(d) A staff member witnessing an incident under consideration should not sit as a member of the Adjustment Committee unless the incident has been so widely witnessed that virtually every staff member has witnessed it in whole or in part.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

**10A:4-8.4 Authority of Disciplinary Hearing Officer or Adjustment Committee**

(a) The Disciplinary Hearing Officer or Adjustment Committee shall have the authority to summon witnesses,

take testimony, receive documentary evidence and shall have access to all correctional facility records which are relevant and necessary to the adjudication of any disciplinary case.

(b) The Disciplinary Hearing Officer or Adjustment Committee shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence which is not necessary for an adequate understanding of the case. The Committee Chairperson or Disciplinary Hearing Officer shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness and to insure that the hearing does not develop into an adversary proceeding.

**10A:4-8.5 Decisions of the Adjustment Committee**

Decisions of an Adjustment Committee at those correctional facilities utilizing such a Committee shall be by majority vote with each member having an equal vote and an equal right to participate in the fact-finding, discussions and deliberations of the Committee.

**SUBCHAPTER 9. DISCIPLINARY PROCEDURES****10A:4-9.1 Disciplinary report**

(a) When a violation of a prohibited act as identified in N.J.A.C. 10A:4-4, Inmate Prohibited Acts has occurred, the staff member who witnessed it or who has probable cause to believe that a prohibited act has occurred shall prepare Form 259. DISCIPLINARY REPORT and forward it to the appropriate correctional supervisor.

(b) The correctional supervisor may change the report to an On-The-Spot Correction report or forward it to the Disciplinary Hearing Officer or Adjustment Committee for further disposition.

**10A:4-9.2 Notification of inmate**

The disciplinary report shall be served upon the inmate within 48 hours after the violation unless there are exceptional circumstances. The report shall be delivered by the reporting staff member or the investigating officer. The report shall be signed by the person delivering it and the date and time of delivery shall be noted. The inmate shall have 24 hours to prepare his/her defense.

**Case Notes**

Deviation from requirement that inmate have 24 hours to prepare defense should be permitted only in extreme circumstances. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Violation of rule requiring that inmate have 24 hours to prepare defense to disciplinary charges was harmless. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Inmate not prejudiced because he received only 24 hours notice of his disciplinary report, subsequent to the completion of the investigation of the charges against him. *Negron v. Department of Corrections*, 220 N.J.Super. 425, 532 A.2d 735 (App.Div.1987).

### 10A:4-9.3 Notification of use of immunity

In all cases, the inmate shall be advised of his/her right to use immunity at any investigative interview and at the disciplinary hearing. This warning shall consist of a statement that any statements made in connection with the disciplinary hearing or any evidence derived directly or indirectly from those statements shall not be used in any subsequent criminal proceeding. The failure to give this warning by the investigating officer shall not be grounds for dismissing the disciplinary report. The Disciplinary Hearing Officer at his/her discretion or the Adjustment Committee at its discretion may grant a postponement if it is determined that such failure has precluded the inmate from adequately preparing his/her defense at the hearing.

Amended by R.1991 d.276, effective June 3, 1991.  
See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Added reference to the Adjustment Committee.

#### Law Review and Journal Commentaries

Survey of Recent Developments in United States and New Jersey Law. Michael Ben-David, Stacy A. Dowling, Kristina K. Pappa, Douglas Friedman, Michael S. Rubin, Kerrie Restieri-Heslin, 25 Seton Hall L.Rev. 1332 (1995).

### 10A:4-9.4 Effect of use immunity

(a) An inmate's failure to invoke use immunity and make a statement in his/her defense may be considered by the Disciplinary Hearing Officer or Adjustment Committee together with the other evidence in decision making.

(b) A finding of guilt at a disciplinary hearing, however, shall not be predicated solely upon an inmate's silence.

### 10A:4-9.5 Investigation

(a) An investigation of the infraction shall be conducted by the correctional facility within 48 hours of the time the disciplinary report is served upon the inmate.

(b) The Superintendent shall appoint a coordinator of investigations who shall be an employee of supervisory level. The Superintendent may also appoint one or more investigating officers who shall ordinarily be employees of supervisory level who have not been involved in the particular incident to be investigated.

(c) The coordinator shall be responsible for all investigations of disciplinary charges. The coordinator may assign individual investigations to an investigating officer who shall be responsible to the coordinator for completing the assignments.

(d) The investigator shall thoroughly investigate the incident. As part of this investigation, the investigator shall verify that the inmate has received the written charge. The investigator shall also read the charge to the inmate, inform the inmate of the inmate's use immunity rights, take the inmate's plea, and ask if the inmate wishes to make a statement concerning the incident or infraction. The investigator shall take the inmate's statement concerning the incident. The investigator may talk to witnesses and the reporting staff member and summarize their statements as may be necessary. Comments about the inmate's attitude may be included in the investigatory report.

(e) The inmate may submit to the investigator a written request for inmate witnesses. Written requests will be attached to the record in the case.

(f) The investigator may include comments and conclusions on the inmate's prior record and behavior, the investigator's analysis of any conflicts between witnesses, and the investigator's conclusions of what in fact happened. The inmate shall not receive a copy of the investigation.

(g) The inmate may obtain a copy of inmate witness statements, provided that the Department of Corrections finds that such a disclosure would not compromise correctional facility safety, security, and goals.

Amended by R.1995 d.542, effective October 16, 1995.  
See: 27 N.J.R. 2853(a), 27 N.J.R. 3957(a).

#### Case Notes

Inmate not entitled to inmate witness statements gathered during investigation. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

### 10A:4-9.6 Requiring further investigation of charges

The Disciplinary Hearing Officer or the Chairperson of the Adjustment Committee may direct a further investigation in any case where he/she is of the opinion that the report is not properly made out or the facts and circumstances are not sufficient to set forth a basic understanding of the incident. The Disciplinary Hearing Officer or Chairperson shall append the supplementary information, in writing, to the original investigation report. The person who supplied the additional information shall sign that section of the report.

### 10A:4-9.7 Review of postponed cases

Hearings which have been postponed for further investigation shall be reviewed by the Disciplinary Hearing Officer or Adjustment Committee within 48 hours of the postponement if the inmate is in Prehearing Detention or within seven days in all other cases to determine if a further postponement is warranted. Further postponements shall be granted only in exceptional circumstances.

i. A concise summary of the facts on which the Disciplinary Hearing Officer or Adjustment Committee concluded that the informant was creditable or his or her information reliable; and

ii. The informant's statement (either in writing or as reported) in language that is factual rather than a conclusion, and based on the informant's personal knowledge of the matters contained in such statement.

2. The Disciplinary Hearing Officer or Adjustment Committee is not permitted to disclose the identity of the informant.

#### Petitions for Rulemaking.

See: 25 N.J.R. 4517(b), 25 N.J.R. 4675(b), 25 N.J.R. 4796(a), 25 N.J.R. 5365(b), 25 N.J.R. 5706(a), 26 N.J.R. 1162(c).

#### Law Review and Journal Commentaries

Prisoners—Discipline—Due Process—Polygraphs. P.R. Chenoweth, 136 N.J.L.J. No. 9, 61 (1994).

#### Case Notes

Action to restore good-time credits remanded to District Court for dismissal as an action seeking federal habeas corpus relief prior to exhaustion of State remedies; "substantial evidence" in disciplinary proceeding held ambiguous, as more frequently taken as a standard of review rather than a burden of proof; exhaustion of State remedies required in light of their ambiguity; (a) disciplinary hearing is substantial evidence of guilt; *Brown v. Fauver*, 819 F.2d 395 (3c 1987).

Inmate, in civil rights action against prison officials, deprived of due process by use of confidential information in increase of his custody status; deprivation not harmless. *Muhammed v. Butler*, 655 F.Supp. 1470 (D.N.J.1987) appeal dismissed 802 F.2d 447.

Disciplinary proceeding violated prisoner's due process rights. *Engel v. New Jersey Dept. of Corrections*, 270 N.J.Super. 176, 636 A.2d 1058 (A.D.1994).

Prisoner should have been allowed to take polygraph test. *Engel v. New Jersey Dept. of Corrections*, 270 N.J.Super. 176, 636 A.2d 1058 (A.D.1994).

Procedural safeguards not used in prison disciplinary proceeding. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

Information provided by confidential informant for use in prison disciplinary hearing must be part of confidential record. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

New prison disciplinary hearing required when procedural safeguards were absent in initial hearing or in presence of newly discovered evidence. *Fisher v. Hundley*, 240 N.J.Super. 156, 572 A.2d 1174 (A.D.1990).

Inmate charged with prison drug trafficking not entitled to verbatim recording of disciplinary proceeding; documents in support of hearing officer's determination were admissible as exceptions to hearsay rule. *Negron v. Department of Corrections*, 220 N.J.Super. 425, 532 A.2d 735 (App.Div.1987).

#### 10A:4-9.16 Alteration of charge during disciplinary hearing

(a) Whenever it becomes apparent at a disciplinary hearing that an incorrect prohibited act is cited in the disciplinary report but that the inmate may have committed another prohibited act, the Adjustment Committee or Disciplinary Hearing Officer shall modify the charge and give the inmate

the option of a 24 hour postponement to prepare his/her defense against the new charge or adjudicate the new charge at that time.

(b) If, after reviewing the charge, the inmate's past disciplinary record and any special reports, the Disciplinary Hearing Officer or Adjustment Committee concludes that the infraction is of a minor nature suitable for handling as an On-The-Spot Correction, the charge may be referred back to the appropriate Shift Supervisor for handling under N.J.A.C. 10A:4-7, On-The-Spot Correction.

#### Case Notes

Inmates charged with disciplinary violations should be informed of constitutional rights. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Inmate will be deemed informed of rights to confront and cross-examine witnesses in prison disciplinary hearing. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

Failure to inform inmate of constitutional rights did not prejudice inmate. *Jacobs v. Stephens*, 139 N.J. 212, 652 A.2d 712 (1995).

#### 10A:4-9.17 Disciplinary sanctions

(a) The disciplinary action may be individualized in keeping with such factors as the:

1. Offender's past history of correctional facility adjustment;
2. Setting and circumstances for the adverse behavior;
3. Involved inmate's accountability;
4. Underlying reasons for noncompliance with regulations; and
5. Correctional goals set for the inmate.

(b) The sanction shall be one or more of those enumerated in N.J.A.C. 10A:4-5, Schedule of Sanctions for Prohibited Acts.

(c) Whenever an inmate damages or destroys plumbing fixtures, or floods his cell at New Jersey State Prison, he may be placed in Prehearing Detention or Disciplinary Detention in a "DRY" cell to serve the sanction imposed.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

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

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

In (a), substituted "may" for "shall" following "disciplinary action" in the introductory sentence.

#### 10A:4-9.18 Suspending sanctions

(a) The Adjustment Committee or Disciplinary Hearing Officer may suspend a sanction(s) imposed upon an inmate for a violation of a prohibited act when, in their opinion, such action is warranted by the particular circumstances of the case.

(b) When a sanction(s) is suspended, the inmate's behavior shall be watched closely for a period of time to see if his or her intentions to conform to the required code of behavior are sincere.

(c) If the inmate whose sanction(s) has been suspended commits further violations of the correctional facility's rules or regulations, the Adjustment Committee or Disciplinary Hearing Officer shall enforce the sanction(s) which was suspended and impose an additional sanction(s) for the new violation(s).

New Rule, R.1988 d.61, effective February 1, 1988.  
See: 19 N.J.R. 1717(b), 20 N.J.R. 294(a).  
Old section 18 recodified to section 19.

#### 10A:4-9.19 Confiscation of contraband items

All items determined to be contraband found in the inmate's possession shall be confiscated and disposed of in accordance with N.J.A.C. 10A:3-6, Contraband and Disposition of Contraband.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).  
Substituted 10A:3-6 for 10A:3.

#### 10A:4-9.20 Guidance and referrals

The Adjustment Committee or Disciplinary Hearing Officer shall give guidance to the inmate with respect to the reason for the rules and policies of the correctional facility. The elements of the inmate's behavior or attitude that are deemed to be unsatisfactory shall be pointed out.

#### 10A:4-9.21 Emergency intra-complex transfer

(a) When it shall appear that an inmate has committed a disciplinary infraction which requires his/her immediate transfer to the general population of another correctional facility or unit within the complex or the Prehearing Detention Unit of another correctional facility or unit within the complex, the notice and disciplinary hearing shall be granted after the transfer.

(b) The Disciplinary Hearing Officer or Adjustment Committee assigned to the correctional facility to which the inmate has been transferred shall conduct the hearing.

(c) The sending correctional facility shall be responsible for preparing the disciplinary charges, conducting the investigation and delivering this material to the receiving correctional facility.

(d) The transfer of inmates in keep-separate status shall be conducted in accordance with N.J.A.C. 10A:3-2.

(e) All due process safeguards shall be provided as soon after the transfer as practicable and shall be in compliance with this subchapter except that written statements of unavailable witnesses shall be liberally accepted instead of live testimony.

(f) Inmates who are transferred from one prison to another prison shall be entitled to a prompt review of the transfer by the Inter-Institutional Classification Committee. (See N.J.A.C. 10A:9, Classification Process.)

(g) Inmates who are transferred from one youth correctional facility to another youth correctional facility shall be entitled to a prompt review of the transfer by the Youth Reception Classification Committee. (See N.J.A.C. 10A:9, Classification Process.)

(h) Juvenile offenders who are transferred from one juvenile facility to another shall be reviewed by the Juvenile Inter-Institution Classification Committee at its next scheduled meeting. (See N.J.A.C. 10A:9, Classification Process.)

(i) No transfer as described in this subchapter shall be effected unless the Superintendent and either the Assistant Commissioner or Director, Division of Operations (or the Chief of Staff if both the Assistant Commissioner and the Director are unavailable) shall have determined that there are emergency conditions in the sending correctional facility justifying the transfer.

Amended by R.1991 d.276, effective June 3, 1991.  
See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Editorial changes only.  
Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Inserted provision for transfer in keep-separate status.  
Administrative correction.  
See: 29 N.J.R. 777(a).  
Rewrote (e).

#### 10A:4-9.22 Emergency inter-complex transfer

(a) When it shall appear that an inmate from the Youth Complex has committed a disciplinary infraction which requires his or her immediate transfer to the Prison Complex, the notice and disciplinary hearing shall be granted after the transfer.

(b) The disciplinary hearing shall be conducted by the Disciplinary Hearing Officer or Adjustment Committee assigned to the correctional facility to which the inmate has been transferred.

(c) The sending correctional facility shall be responsible for preparing the disciplinary charges, for conducting the investigation and for delivering the material to the receiving correctional facility.

(d) The transfer of inmates in keep-separate status shall be conducted in accordance with N.J.A.C. 10A:3-2.

(e) All due process safeguards shall be provided as soon after the transfer as practicable and shall be in compliance with this subchapter except that written statements of unavailable witnesses shall be liberally accepted instead of live testimony.

(e) Where possible, a Superintendent, Assistant Superintendent or Director of Custody should review and approve or disapprove a request to place an inmate in Prehearing Detention.

(f) Any time spent in Prehearing Detention shall be credited against any subsequent sentence imposed.

Amended by R.1991 d.276, effective June 3, 1991.

See: 23 N.J.R. 658(a), 23 N.J.R. 1797(b).

Provisions previously mandated are now suggested thereby providing more flexibility.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

#### Case Notes

Prison inmate was properly placed in detention while awaiting hearing on drug-trafficking charges. *Negron v. Department of Corrections*, 220 N.J.Super. 425, 532 A.2d 735 (App.Div.1987).

#### 10A:4-10.2 Placement in Disciplinary Detention

(a) Inmates shall be placed in Disciplinary Detention by the Adjustment Committee or Disciplinary Hearing Officer for a period not to exceed 15 days.

(b) If it shall be determined that the inmate has committed a new major violation during the period of Disciplinary Detention, this time may be extended. In response to the commission of this new infraction, the Adjustment Committee or Disciplinary Hearing Officer shall provide the inmate with a due process hearing pursuant to N.J.A.C. 10A:4-9, Disciplinary Procedures, prior to extending the 15 day period of Disciplinary Detention. The period of Disciplinary Detention shall not extend beyond 30 days, except as provided in N.J.A.C. 10A:4-6, Chronic Violator.

(c) In the event of further infractions in the Unit or correctional facility, the Adjustment Committee or Disciplinary Hearing Officer shall consider alternative programs for regulating the inmate's behavior within acceptable limits.

(d) The inmate shall be entitled to appear before the Adjustment Committee or Disciplinary Hearing Officer unless the inmate refuses to appear or the inmate's presence would pose a threat to the security of the correctional facility. Under no circumstances shall force be used to compel the attendance of the inmate at the disciplinary hearing. A refusal to appear shall be entered upon the Adjudication of Disciplinary Charge form by the Disciplinary Hearing Officer or Adjustment Committee Chairperson.

(e) The time an inmate spends in Disciplinary Detention shall be proportionate to the offense committed, taking into consideration the inmate's prior conduct, his/her specific program needs and other relevant factors.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

#### 10A:4-10.3 Separate facilities

(a) Facilities utilized to separate inmates from the general population shall be physically separate so that materials allowed inmates in one section cannot be passed to inmates in Disciplinary Detention.

(b) An inmate may be confined to his or her room or housing unit to serve Disciplinary Detention under appropriate circumstances, such as overcrowding, riots, and fires. All requirements of the Detention Program shall apply when the inmate serves Disciplinary Detention separate from the general population or when Disciplinary Detention is served in the inmate's room or housing area.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

#### Case Notes

Disciplinary rules do not give rise to creation of a "liberty interest" requiring a prisoner to become part of the general prison population; no violation of due process involved in the solitary confinement of a prisoner as a result of prison overcrowding (citing former N.J.A.C. 10:34-1.7, 10:35-6, 49, and 69.1 through 70.6). *Gibson v. Lynch*, 652 F.2d 348 (3rd Cir.1981) certiorari denied 103 S.Ct. 3123, 462 U.S. 1137, 77 L.Ed.2d 1375 (1983).

#### 10A:4-10.4 Ventilation, heating, lighting and sanitation in Detention Program

(a) Ventilation and reasonable temperature shall be maintained on a 24 hour basis. Light of sufficient intensity shall be maintained to allow visual observation of inmates at all times. When admitted, inmates shall not be placed in cells that lack cleanliness or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to insure the cells are kept secure, clean and sanitary.

(b) Toilets that are flush controlled from outside the cells shall be flushed as often as necessary to maintain good sanitary conditions.

(c) Inmates confined to "DRY" cells shall be permitted to shower at least once every three days. Drinking water shall be available upon request.

#### 10A:4-10.5 Visual observation

Inmates in Disciplinary Detention shall be observed regularly and frequently by custodial staff. There shall be no physical obstruction to visual observation of inmates at any time. Full or partial curtains shall not be permitted over the cell door.

#### 10A:4-10.6 Personal items

(a) All inmates shall be admitted to Disciplinary Detention dressed in normal correctional clothing after a thorough search for contraband except that:

1. No belts shall be permitted; and

2. Shoestrings may be removed or shoes may be replaced with cloth or paper slippers at the discretion of the Superintendent.

(b) Each inmate shall be provided with the following items for use in the cell to the same extent as such items are provided for inmates in the general population:

1. Clothing required for use in the cell;
2. Bedding and mattresses;
3. Personal hygiene supplies (including soap, deodorant, toothbrush and toothpaste or powder, towel, toilet paper, and female sanitation supplies for women);
4. Utensils and supplies for adequately cleaning the cell;
5. Eyeglasses;
6. Writing materials; and
7. Legal materials.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

In (b)3 provided for female sanitation supplies.

#### **10A:4-10.7 Withdrawal of personal items or special activities**

(a) Whenever in the judgment of the supervisor of the Unit there shall be imminent danger that an inmate will destroy any item or will injure himself or herself, another person, or damage property with any item, the supervisor may direct that the inmate be deprived of the item, if practicable. In such case, however, every effort shall be made to supply a substitute for the item or to permit the inmate to use the item under supervision of an officer.

(b) Whenever an inmate shall be deprived of any usually authorized item or activity, a written report shall be immediately forwarded to the Superintendent or his or her designee, identifying the inmate, the item or activity of which the inmate has been deprived and the reason thereof.

(c) Whenever the circumstances are such that all the inmate's clothing is removed, the Superintendent or his/her designee shall be contacted immediately for approval of this action. The written report outlined in N.J.A.C. 10A:4-10.7(b) shall be sent to the Superintendent or his/her designee.

(d) Arrangements shall be made for a physician or other appropriate staff to visit the inmate as soon as possible after the withdrawal of personal item(s) or activities.

(e) In all cases, the item or activity shall be restored to the inmate as soon as restoration appears to be consistent with safety.

(f) No inmate shall ever, under any circumstances, be deprived of any of these items or activities for the purposes of punishment or discipline.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

#### **10A:4-10.8 Medical and psychiatric services**

(a) Inmates in Disciplinary Detention shall receive a daily visit by a member of the medical staff which can be a nurse, paramedic, doctor or other authorized health care personnel.

(b) Medical and psychiatric emergencies shall be attended to immediately. Requests for medical attention for inmates in nonemergency situations shall be responded to by the physician, or a medical person designated by physician within 24 hours.

(c) Whenever it shall appear that an inmate is suffering from an emotional or psychiatric disturbance, arrangements shall be made for a psychiatric or psychological evaluation.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

#### **10A:4-10.9 Emergency evacuation**

Each correctional facility shall develop a written evacuation plan in case of fire or other emergencies.

#### **10A:4-10.10 Visits by social work and correctional supervisory staff**

(a) A member of the correctional facility social work staff shall visit the inmates in Disciplinary Detention daily to determine any emergencies or unusual needs of the inmates.

(b) Inmates shall receive at least daily visits from the senior correctional supervisor in charge of the Disciplinary Detention area.

#### **10A:4-10.11 Chaplain services**

Inmates confined in Disciplinary Detention shall not be denied pastoral services. The correctional facility chaplain or an outside religious leader approved by the chaplain and Superintendent to conduct religious activities shall visit this area in response to an inmate's written request to provide religious counseling or other pastoral services.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

Deleted inmate handbook requirement.

#### **10A:4-10.12 Food**

(a) Disciplinary Detention or Prehearing Detention inmates shall be served the normal correctional facility meals on the menu of the day or such special diet as shall be prescribed.

(b) Disposable utensils shall be used when necessary.

**10A:4-10.13 Correspondence, visits and telephone calls**

(a) Inmates in Disciplinary Detention shall have the same opportunities to send and receive written correspondence that are available to inmates in the general population (see N.J.A.C. 10A:18, MAIL, VISITS AND TELEPHONE).

(b) Inmates in Disciplinary Detention shall not be provided with visit or telephone opportunities while in Disciplinary Detention with the exception of legal telephone calls.

1. The Superintendent or his/her designee may authorize a special visit or telephone call for an inmate when there are compelling reasons to do so.

2. Every effort shall be made to notify expected social visitors of the restriction on ordinary visiting procedures prior to the next regularly scheduled visiting period. If ample time for correspondence shall exist, the burden of this notification shall be placed on the inmate.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

**10A:4-10.14 Grooming, showering and shaving**

Barbering and hair care services shall be provided in the Disciplinary Detention area, as needed. Each inmate shall be given the opportunity to shave and shower not less than two times a week, unless permitting these activities would present an undue security hazard. Correctional facilities capable of providing for more frequent shaving and showering shall do so not less than three times per week.

**10A:4-10.15 Reading material**

Inmates in Disciplinary Detention shall be permitted to retain in their possession an amount of reading material that is consistent with the maintenance of security and the orderly operation of the Unit. Reading material not permitted in Disciplinary Detention is outlined in N.J.A.C. 10A:18, MAIL, VISITS AND TELEPHONE.

**10A:4-10.16 Recreation**

Where conditions permit, correctional facilities shall provide recreation outside the cells at least five hours per week.

**10A:4-10.17 Records in Disciplinary Detention**

(a) The following information on inmates confined in Disciplinary Detention status shall be available in the Unit for the use of the custodial staff:

1. Inmate's name;
2. Number;
3. Housing location;
4. Unit;
5. Cell or room assignment;
6. Date admitted;

7. Disciplinary charge leading to Disciplinary Detention;

8. Expiration date of Disciplinary Detention; and

9. Special medical or psychiatric problems.

(b) Visits by medical, psychiatric, social work or correctional supervisory staff and all unusual behavior shall be noted in the Unit log book together with the time and date.

**10A:4-10.18 Correctional facility procedures**

(a) Each correctional facility shall develop written procedures and post orders consistent with this subchapter.

(b) The written procedures and post orders for the Detention Program shall be submitted to the Office of the Chief of Staff for review and approval on or before January 31 of each year.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

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## SUBCHAPTER 11. APPEALS OF DISCIPLINARY DECISIONS

**10A:4-11.1 Time limit to file an appeal**

(a) The inmate shall be advised in writing by the Disciplinary Hearing Officer or Adjustment Committee of the opportunity to appeal to the Superintendent or designee at the time the inmate is provided with the disciplinary decision.

1. Inmates within the main correctional facilities of the Prison or Youth Complex shall have 48 hours from receipt of the disciplinary decision to make such appeal.

2. Inmates in satellite units shall have 48 hours to present the appeal form to a designated individual at the unit who shall deliver it to the Superintendent.

(b) In all cases, the Superintendent or designee may, for good cause shown, accept appeals submitted after the prescribed deadline.

Administrative Correction, effective January 27, 1989.  
See: 21 N.J.R. 558(a).

Institutional name change.  
Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).  
Amended by R.1998 d.526, effective November 2, 1998.  
See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (a), deleted "his or her" preceding "designee" in the introductory paragraph, deleted former 2 and recodified former 3 as 2; and in (b), deleted "his/her" preceding "designee".

## Case Notes

Inmate's federal court claim that disciplinary proceedings violated his constitutional rights was barred under doctrine of claim preclusion. *Rodziewicz v. Beyer*, D.N.J.1992, 809 F.Supp. 1164.

**10A:4-11.2 Processing appeal**

(a) The inmate shall use the Appeal of Disciplinary Decision Form 256-I.

(b) Upon submission of the Form 256-I, the person accepting the appeal form shall sign, date and note the time on the original and copies in the inmate's presence. A copy shall be given to the inmate.

(c) The appeal form shall be brought to the Superintendent's office during the same shift on which it is received from the inmate.

(d) All appeals shall be considered by the Superintendent of the correctional facility in which the charge was received.

(e) If the inmate has been transferred before the appeal is heard, the appeal form shall be delivered to the Superintendent of the correctional facility from which the charges were issued within 48 hours of its receipt from the inmate.

(f) Inmates unable to complete Form 256-I Appeal of Disciplinary Decision may request assistance in preparing the Form 256-I from another inmate. When the Form 256-I has been completed by an inmate other than the inmate who received the charge, the name of the preparer should appear on the Form.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

## Case Notes

Due process requires only that disciplinary proceedings and administrative appeals viewed as whole not lead to constitutionally tainted result. *Hyson v. Neubert*, D.N.J.1993, 820 F.Supp. 184.

**10A:4-11.3 Suspension of sanctions pending appeal**

(a) Inmates who wish to have their sanctions suspended pending a decision on their appeal, must make a request to the Superintendent or his/her designee for this consideration. If this request is not made, then no action shall be taken to suspend any sanctions received in the disciplinary hearing.

(b) If requested, a disciplinary sanction shall not be suspended pending appeal unless the inmate establishes by clear and convincing evidence that his or her release from Disciplinary Detention will not jeopardize correctional facility security and order, that witnesses or victims will not be intimidated and that the inmate will not engage in any action which could otherwise interfere with the administration of justice.

(c) In those cases where the Superintendent grants the inmate's request for release from Disciplinary Detention pending appeal, the release shall not preclude the correctional facility from denying outside privileges; such as furloughs for the inmate even though other disciplinary sanctions are suspended pending the outcome of the appeal.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

**10A:4-11.4 Investigation of appeal**

(a) The Superintendent or his or her designee may order an independent investigation of the charge and proceedings of the disciplinary hearing in those instances in which the inmate's appeal and information furnished after the initial disciplinary hearing appear to warrant such action.

(b) The Superintendent shall have the option to request a total or partial reinvestigation of the charge or proceedings of the hearing. The reinvestigation may be conducted by any person or unit designated by the Superintendent; provided, however, that the individual shall have had no contact with the issuance of the first investigation of the charge.

(c) The reinvestigation may include any of the components of the original investigation such as reinterviewing witnesses, inmates and officers, reevaluating reports and reexamining evidence.

(d) If on the basis of new evidence, the Superintendent finds serious issues of credibility, the Superintendent may also request a polygraph examination as part of the reinvestigation. Such requests shall be in accordance with N.J.A.C. 10A:3-7, Polygraph Examination.

(e) In reviewing an appeal the following factors shall be considered:

1. Compliance with the subchapters on inmate discipline which prescribe procedural safeguards;
2. Whether the decision of the Disciplinary Hearing Officer or Adjustment Committee was based upon substantial evidence;
3. Whether the sanction imposed was proportionate to the offense in view of the inmate's recent disciplinary history and present custody status except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c); and/or
4. Whether extenuating circumstances were considered.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

In (d) substituted 10A:3-7 for 10A:3.  
Amended by R.1998 d.526, effective November 2, 1998.  
See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (e), added an exception at the end of 3.

**Law Review and Journal Commentaries**

Prisoners—Discipline—Due Process—Polygraphs. P.R. Chenoweth, 136 N.J.L.J. No. 9, 61 (1994).

**Case Notes**

Prisoner should have been allowed to take polygraph test. *Engel v. New Jersey Dept. of Corrections*, 270 N.J.Super. 176, 636 A.2d 1058 (A.D.1994).

**10A:4-11.5 Disposition of appeal**

(a) At the conclusion of the Superintendent's review of an appeal, one of the following actions shall be taken:

1. The Superintendent or his or her designee shall rescind the decision of the Disciplinary Hearing Officer or Adjustment Committee if the review and/or investigation indicates that the evidence fails to demonstrate that any violation was committed, or the Superintendent determines that there was such a failure to adhere to proper procedures at the initial hearing that the inmate had been irreparably prejudiced and would be unable to present a defense at a rehearing. No further disciplinary action shall be taken. The copies of the infraction and all notations concerning the infraction shall be promptly expunged from the inmate's records.

2. The Superintendent or his/her designee shall rescind the original decision and order a new hearing if the review and/or investigation indicates that procedural safeguards prescribed for inmate disciplinary hearings were not followed, or if new evidence not available at the original hearing is revealed. If a new hearing is ordered, there shall be no increase in the severity of the sanctions unless new evidence warrants such action.

3. The Superintendent or designee shall downgrade the sanctions if the review and/or investigation indicates that the sanction is disproportionate to the offense in accordance with factors enumerated in N.J.A.C. 10A:4-9, Disciplinary Procedures, except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) or 5.2(c).

4. The Superintendent or his or her designee shall order a new hearing if the review and/or investigation indicates that the evidence does not support the findings of the Adjustment Committee or Disciplinary Hearing Officer but would support some form of disciplinary action for a lesser offense than that with which the inmate was charged.

5. The Superintendent or his/her designee, in all other cases, shall uphold the decision of the Adjustment Committee or Disciplinary Hearing Officer and make no change in the penalty.

(b) In no event shall there be an increase in severity of sanctions issued by the Adjustment Committee or Disciplinary Hearing Officer solely as a result of the review of the appeal.

Amended by R.1996 d.237, effective May 20, 1996.

See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

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

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

In (a)3, deleted "his/her" preceding "designee" at the beginning and added an exception at the end.

**Case Notes**

Inmate's federal court claim that disciplinary proceedings violated his constitutional rights was barred under doctrine of claim preclusion. *Rodziewicz v. Beyer*, D.N.J.1992, 809 F.Supp. 1164.

**10A:4-11.6 Policy regarding rehearings**

(a) If a rehearing is required, the inmate shall be accorded all procedural rights applicable to a disciplinary hearing.

(b) The hearing body may be the same as that which heard the original charge unless the composition of that body was the procedural defect requiring the rehearing or unless there is a substantial likelihood of prejudice.

1. In the absence of exceptional circumstances, a rehearing shall be scheduled no more than 14 days from the date of the original hearing.

2. When a disciplinary sanction has not been suspended pending the outcome of the appeal, a rehearing shall be scheduled within 24 hours of the Superintendent's decision to have the matter reheard, excluding weekends and holidays, in the absence of exceptional circumstances.

(c) Rehearings may be appealed and the Superintendent may exercise the same options as provided for in N.J.A.C. 10A:4-11.5.

**10A:4-11.7 Notification of inmate on appeal results**

(a) In all cases, the inmate shall be notified in writing of the results of the review of his or her appeal and the reasons therefor.

1. If an inmate is being held in Disciplinary Detention which resulted from disciplinary action, the written decision on the appeal shall be given to the inmate within 72 hours of receipt of the appeal, excluding weekends and holidays.

2. In all other cases, or if the sanctions have been suspended, the Superintendent or his or her designee shall respond in writing to the inmate within seven working days of receipt of the appeal. Form 256-II, Disposition of Disciplinary appeal shall be used for this purpose.

(b) Copies of the decision shall also be distributed to the Adjustment Committee or the Disciplinary Hearing Officer and the inmate's file. Other copies may be distributed as determined to be necessary by the Superintendent.

(c) Only for reasons of significant importance may a Superintendent or his/her designee extend the time limit to act on an appeal. In such case, the inmate shall be notified in writing within the prescribed time period that action on

his/her appeal has been extended. Where possible, the reason for the extension shall be explained in general terms to the inmate.

Amended by R.1996 d.237, effective May 20, 1996.  
See: 28 N.J.R. 1464(a), 28 N.J.R. 2555(b).

In (a)2 substituted Form 245-II for Form 256-II.

**10A:4-11.8 Expungement**

Expungement of a disciplinary charge when an inmate has been found not guilty, shall be done in accordance with N.J.A.C. 10A:4-9, Disciplinary Procedures.

**10A:4-11.9 (Reserved)**

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**SUBCHAPTERS 12 THROUGH 13. (RESERVED)**