

munity based"; in definition "Residential community programs", substituted "community-based" for "community based"; and substituted definition "Residential Community Release Program (RCRP)" for definition "Residential Community Release Agreement Program (RCRP)" and definition "Residential Community Program Notification Committee" for definition "Residential Community Program Victim Notification Classification Committee".

10A:20-1.4 Authority

Pursuant to N.J.S.A. 30:4-91.2, the Commissioner, New Jersey Department of Corrections, or designee may designate as a place of confinement any available, suitable and appropriate facility whether owned by the State or otherwise, and may at any time transfer an inmate from one place of confinement to another.

10A:20-1.5 Forms

(a) The following forms related to residential community programs are available by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 172—II Continuity of Evidence—On-Site Urine Specimen Testing;
2. 686—I Community Program Application;
3. 686—II Community Program Application Checklist; and
4. MR-030 Community Release Medical Examination Form.

(b) The following forms related to the Furlough Program shall be reproduced by each correctional facility from the original that is available by contacting the New Jersey State Parole Board:

1. I-4 Request for Pre-Parole Report;
2. 822—A Pre-Parole Report.

(c) The following form is related to the accounting process as used by the RCRP when billing the Department of Corrections. The form shall be reproduced from the original that is available by contacting the New Jersey Department of Corrections, Division of Programs and Community Services, Office of Community Programs:

1. AR 50/54—State of New Jersey Payment Voucher (Vendor Invoice).

Administrative change.

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

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

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 by each correctional facility 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" and ", New Jersey Department of Corrections".

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In the introductory paragraph of (c), deleted ", New Jersey Department of Corrections" from the end.

SUBCHAPTERS 2 THROUGH 3. (RESERVED)

SUBCHAPTER 4. RESIDENTIAL COMMUNITY RELEASE PROGRAMS AND MUTUAL AGREEMENT PROGRAMS

10A:20-4.1 Contract/agreement between the New Jersey Department of Corrections and community agencies

(a) Agencies outside of the New Jersey Department of Corrections shall enter into a formal contract with the Department of Corrections prior to receiving inmates for placement into Residential Community Release Programs.

(b) Prior to receiving inmates for placement into a Mutual Agreement Program, such programs must be licensed through the Department of Human Services and be required to comply with the conditions established within the cooperative agreement that exists between the New Jersey Department of Corrections and the New Jersey Department of Human Services.

(c) In addition to any other contractual provisions, every contract between the Department of Corrections and the operator of a RCRP shall provide for the establishment of a Community Relations Advisory Board(s) in accordance with N.J.S.A. 30:4-91.12.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Designated the existing paragraph as (a) and substituted "Agencies" for "All agencies" preceding "outside"; added (b) and (c).

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In (a), deleted "Agreement" following "Release"; and in (b), substituted "Human" for "Health and Senior" twice, deleted "formal" preceding "cooperative" and ", the New Jersey State Parole Board" following "Corrections", and substituted "between" for "among".

10A:20-4.2 Administration of Residential Community Programs

(a) The Division of Programs and Community Services, Office of Community Programs, shall be responsible for the administration, monitoring and oversight of Residential Community Release Programs under contract with the New Jersey Department of Corrections.

(b) The Division of Programs and Community Services, Office of Drug Programs, shall be responsible for the monitoring and oversight of the Department of Corrections related responsibilities of the Mutual Agreement Programs. The Division of Administration is responsible for contract management.

Amended by R.2003 d.225, effective June 2, 2003.
See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Designated the existing paragraph as (a) and substituted "Division of Programs and Community Services, Office of Community Programs" for "Bureau of Contract Administration"; added (b).

Amended by R.2008 d.266, effective September 2, 2008.
See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In (a), inserted a comma following the second occurrence of "Programs", inserted ", monitoring and oversight", and deleted "Agreement" following "Release"; and in (b), substituted "monitoring and oversight" for "administration" and inserted the last sentence.

Case Notes

Prisoner did not have state-created liberty interest in remaining in work release program that warranted due process protections; removal from a work release program did not work atypical and significant hardship relative to ordinary incidents of prison and was concerned only with conditions of confinement, not duration of confinement, and did not violate any substantive state-created predicates for terminating participation. *Asquith v. Volunteers of America*, 1 F.Supp.2d 405 (D.N.J. 1998).

10A:20-4.3 Duties of correctional facility staff responsible for coordinating release to residential community programs

(a) The correctional facility Administrator shall designate a staff member to serve as the Institutional Community Release Program Coordinator. The Institutional Community Release Program Coordinator shall:

1. Maintain liaison with the Office of Community Programs and the Residential Community Release Programs;
2. Make periodic visits to Residential Community Release Programs and attend training sessions provided by the Office of Community Programs;
3. Be familiar with the Residential Community Release Programs and advise correctional facility staff of changes in policies of Residential Community Release Programs when advised by staff of the Office of Community Programs;
4. Be responsible for explaining Residential Community Release Programs to inmates; and
5. Be responsible for notifying the Office of Community Programs of any change that occurs in an inmate's status, such as, but not limited to, medical, custody, detainees or any such circumstances that would render the inmate ineligible for participation in Residential Community Release Programs.

Amended by R.2003 d.225, effective June 2, 2003.
See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), substituted "Administrator" for "Superintendent" in the introductory paragraph, inserted ", but not limited to," preceding "medical," in 5, and substituted "Office of Community Programs" for "Bureau of

Contract Administration" and references to Residential Community Release Agreement Programs for references to contract agencies throughout.

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

Deleted "Agreement" following "Release" throughout; and in (a)3, substituted "familiar" for "responsible for having a thorough familiarity", inserted "the" preceding the first occurrence of "Residential" and inserted "when advised by staff of the Office of Community Programs".

10A:20-4.4 General eligibility criteria for residential community programs

(a) Candidates for participation in residential community programs shall:

1. Be classified full minimum by the Institutional Classification Committee (I.C.C.) except as set forth in N.J.A.C. 10A:9-3 and 4;
2. Not demonstrate an undue risk to public safety;
3. Have a psychological evaluation which supports placement in a residential community program and shall address the inmate's readiness and ability to adequately adapt to the pressures and responsibilities of living outside the correctional facility. The psychological evaluation shall not be more than 12 months old;
4. Have received medical and dental certification, in accordance with N.J.A.C. 10A:20-4.9, indicating medical and dental clearance and that shall not be more than twelve months old;
5. Have made a satisfactory overall correctional facility adjustment and be seen as not likely to pose a threat to the safety of the community;
6. Have completed and signed Form 686—I Community Program Application for those inmates who are interested in participating;
7. Have had Form 686—I approved by the Institutional Classification Committee (ICC);
8. Have been approved by the Residential Community Program Notification Committee when notification is required pursuant to N.J.S.A. 30:4-91.8; and
9. Have been found to be an appropriate candidate for participation in a residential community program by the Assessment and Treatment Center.

Petition for Rulemaking.

See: 33 N.J.R. 1477(a).

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

Amended by R.2007 d.42, effective February 5, 2007.

See: 38 N.J.R. 4389(a), 39 N.J.R. 489(a).

In (a)1, inserted "except as set forth in N.J.A.C. 10A:9-3.12".

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In (a)1, updated the N.J.A.C. reference; and in (a)8, deleted "Victim" following "Program" and "Classification" following "Notification".

Petition for Rulemaking.

See: 46 N.J.R. 715(b).

10A:20-4.5 Specific eligibility criteria for residential community programs

(a) In addition to the general eligibility criteria in N.J.A.C. 10A:20-4.4, candidates for residential community programs who have not been convicted of a sexual offense as defined in N.J.S.A. 30:4-91.8 or an arson offense and who do not demonstrate an undue risk to public safety shall be eligible within the time frames established in (b) below of:

1. An established parole date;
2. An expiration of maximum sentence;
3. An actual parole eligibility date established by the New Jersey State Parole Board; or
4. An anticipated parole date, as established by the New Jersey State Parole Board, for inmates serving indeterminate sentences.

(b) Candidates are eligible for participation in a residential community program when the candidate:

1. Is otherwise eligible and who has less than 18 months remaining to be served and is determined by the Commissioner or designee to be appropriate for participation in a residential community program; or
2. Is otherwise eligible and who has more than one year but less than two years remaining to be served and is determined by the Commissioner or designee to be appropriate for participation in a substance use disorder treatment program.

Petition for Rulemaking.

See: 30 N.J.R. 3108(a), 30 N.J.R. 3553(b).

Amended by R.1999 d.427, effective December 6, 1999.

See: 31 N.J.R. 2293(a), 31 N.J.R. 4060(a).

In (a), inserted a reference to substance abuse treatment programs in the introductory paragraph.

Petition for Rulemaking.

See: 33 N.J.R. 1477(a).

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

In (a), rewrote the introductory paragraph; added (b).

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In the introductory paragraph of (b), inserted "residential" and deleted "release" following "community".

10A:20-4.6 (Reserved)

Repealed by R.1999 d.427, effective December 6, 1999.

See: 31 N.J.R. 2293(a), 31 N.J.R. 4060(a).

Section was "Eligibility criteria for Substance Abuse Treatment Programs".

10A:20-4.7 Exclusions from residential community programs

(a) The following circumstances shall make an inmate ineligible for participation in a residential community program:

1. The provisions of any statutes of the State of New Jersey; and/or

2. Detainers, open charges or sentences which preclude eligibility for full minimum custody status (see N.J.A.C. 10A:9).

(b) A previous violation of a furlough, work release, electronic monitoring, or residential community program under the jurisdiction of the Department of Corrections may make an inmate ineligible for participation in a residential community program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote (a); added (b).

10A:20-4.8 Inmate application, eligibility and review by the Institutional Community Release Program Coordinator

(a) An inmate interested in participating in a Residential Community Release Program shall complete and sign all sections of Form 686—I Community Program Application and submit it to the Institutional Community Release Program Coordinator for review.

(b) The Institutional Community Release Program Coordinator shall explain to the inmate that the inmate's signature on Form 686—I merely signifies a willingness to participate in a residential community program and does not signify that the inmate has been approved for the Program.

(c) The Institutional Community Release Program Coordinator, upon receipt of the application from the inmate, shall determine:

1. That Form 686-I is completely and accurately filled out; and

2. That the inmate meets the eligibility criteria established for inmate participation in the residential community program.

(d) If the inmate does not meet the eligibility criteria, the inmate shall be notified of the reason(s), in writing, by the Institutional Community Release Program Coordinator.

(e) If the inmate meets the eligibility criteria, the Institutional Community Release Program Coordinator shall sign and submit Form 686—I to the Institutional Classification Committee (I.C.C.) for review and approval or disapproval.

(f) State-sentenced inmates in adult county correctional facilities may be reviewed for eligibility by the Director, Office of Community Programs or designee without the State-sentenced inmate having to submit an application. These inmates may be approved or disapproved by the Institutional Classification Reception Committee (I.C.R.C.) at the Central Reception and Assignment Facility for participation in a residential community program.

(g) The Office of Community Programs shall select the program assignment for the inmate approved by the I.C.C. for participation in a residential community program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

Section was "Inmate application, eligibility and review by the Institutional Community Release Agreement Program Coordinator". Deleted "Agreement" following "Release" throughout; in (a), deleted "or who has received a recommendation to participate in MAP from the New Jersey State Parole Board" following the first occurrence of "Program"; and in (e), deleted "final" preceding "approval".

Amended by R.2012 d.122, effective July 2, 2012.

See: 44 N.J.R. 645(a), 44 N.J.R. 1899(a).

In (f), substituted "Institutional" for "Inter-Institutional" and "(I.C.R.C.)" for "(I.I.C.C.)", and inserted the first occurrence of "Reception".

Petition for Rulemaking.

See: 46 N.J.R. 715(b).

Case Notes

The DOC's decision not to transfer an inmate to a halfway house based on misplaced letters and fact that case was highly visible and notorious, without a supporting record (or reconstruction) could not be the basis for denying the transfer when the Parole Board considered such placement critical to the parole process. *Trantino v. New Jersey State Parole Bd.*, 154 N.J. 19, 711 A.2d 260 (N.J. 1998).

10A:20-4.9 Medical/dental/psychological review of applicants for residential community programs

(a) A complete review of an inmate's medical records shall be made by the health care provider when the inmate is being considered for placement in a residential community program.

(b) The responsible health care authority who is clinically responsible for the correctional facility medical department shall review an inmate's medical records, consider the following factors and provide medical certification prior to the Institutional Classification Committee (I.C.C.) approving or disapproving the inmate for participation in a residential community program. Factors to be considered include, but are not limited to:

1. The employability of the inmate;
2. The work limitations of the inmate, such as no food handling, light duty, no work around machinery;
3. Medication(s), such as psychotropic and addictive medication;
4. Chronic illness requiring frequent intervention, such as uncontrolled diabetes and unstable asthma;
5. Impending surgery; and
6. Any known medical restrictions.

(c) The responsible health care authority who is clinically responsible for the dental department shall review an inmate's dental records, consider all dental work in progress and provide dental certification prior to the I.C.C. approving or disapproving the inmate application for participation in a residential community program.

(d) The medical and dental health care authorities shall complete MR—030 Community Release Medical Examination Form and submit the form to the Institutional Community Release Program Coordinator who shall forward Form MR—030 to the I.C.C.

(e) If there are questions regarding the appropriateness of medically or dentally approving an inmate for participation in a residential community program, the medical and/or dental health care authority shall contact the Division of Operations, Health Services Unit, Director of Medical Services or Director of Dental Services, for assistance prior to sending the completed Form MR—030 to the Institutional Community Release Program Coordinator.

(f) An inmate's most recent psychological evaluation shall be reviewed prior to the I.C.C. approving or disapproving the inmate for participation in the residential community programs. When a psychological evaluation is more than 12 months old, the health care authority of the correctional facility shall ensure that another evaluation of the inmate is conducted. The evaluation shall assess:

1. The inmate's readiness and ability to adequately adapt to the pressures and responsibilities of living outside the correctional facility; and
2. The stability of the inmate which takes into account:
 - i. Any mental illness; and/or
 - ii. Current use of psychotropic medications.

(g) The Institutional Community Release Program Coordinator shall notify the Office of Community Programs of any changes in the inmate's medical, dental and/or psychological conditions that occur during the period of time between I.C.C. approval of an inmate for participation in the residential community programs and the transfer of the inmate to a program.

Amended by R.2003 d.225, effective June 2, 2003.

See: 34 N.J.R. 4325(a), 35 N.J.R. 2483(a).

Rewrote the section.

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

In (d), (e) and (g), deleted "Agreement" following "Release".

10A:20-4.10 Institutional Classification Committee's (I.C.C.) review and disposition

(a) The Institutional Classification Committee (I.C.C.) shall have the authority to review the inmate's file, and may approve/disapprove an inmate for participation in a residential community program after review of:

1. The general eligibility criteria in N.J.A.C. 10A:20-4.4;
2. The inmate's present and/or previous parole violation(s);