

1. Up to 15 calendar days of Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 calendar 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 calendar days, subject to confirmation by the Administrator (inmates serving indeterminate sentences do not earn commutation time and are therefore not subject to this sanction);
5. Loss of furlough privileges for up to two months;
6. Up to two weeks confinement to room or housing area;
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;
10. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 calendar days; and/or
11. Referral to the Mental Health Unit for appropriate care/treatment.

(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 calendar days of Disciplinary Detention;
2. Loss of one or more correctional facility privileges up to 30 calendar days;
3. Up to 60 calendar days loss of commutation time, subject to confirmation by the Administrator;
4. Administrative Segregation for a specified time not to exceed 90 calendar days subject to confirmation by the Institutional Classification Committee;
5. Loss of furlough privileges for up to two months;
6. Up to two weeks confinement to room or housing area;
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;

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

11. Referral to the Mental Health Unit for appropriate care/ treatment.

(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 and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated:

1. \*.203 possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;

2. \*.204 use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff;

3. \*.215 possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia;

4. \*.216 distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia;

5. \*.258 refusing to submit to testing for prohibited substances;

6. \*.259 failure to comply with an order to submit a specimen for prohibited substance testing (see N.J.A.C. 10A:3-5);

7. \*.261 tampering with a test specimen;

8. \*.551 making intoxicants, alcoholic beverages or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia;

9. \*.552 being intoxicated;

10. \*.708 refusal to submit to a search (when the inmate has been given advance verbal notice that the search is being conducted due to reasonable suspicion related to possession, sale or use of prohibited substances such as drugs, alcohol or intoxicants and the advance notice has been documented on Form 259 Disciplinary Report); and

11. \*.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) Pursuant to the Zero Tolerance Drug/Alcohol Policy as defined in N.J.A.C. 10A:1-2.2, a finding of guilt to \*.205 misuse of authorized medication (such as narcotics and controlled dangerous substances), as determined by the Disciplinary Hearing Officer or Adjustment Committee, may result in termination of contact visit privileges and ineligibility

bility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated.

(e) Pursuant to the "Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy" as defined at N.J.A.C. 10A:1-2.2, a finding of guilt to prohibited act \*.009 as determined by the Disciplinary Hearing Officer or Adjudication Committee, shall result in the termination of contact visit privileges and ineligibility for consideration for any custody status lower than medium custody until after the contact visit privileges are reinstated in addition to administrative action and program requirements in accordance with this section.

(f) In accordance with N.J.S.A. 30:4-140.1, a finding of guilt to \*.360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family shall subject an inmate to the forfeiture of up to 365 accumulated commutation credits and up to 72 work time credits.

(g) In addition to the sanctions in this section, administrative action may be taken when approved by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Administrator or designee. Such administrative action may include, but not be limited to, the following:

1. Recommending transfer to a more appropriate correctional facility or unit (excluding units not considered punitive, such as, but not limited to, a Security Threat Group Management Unit);
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 and/or television privileges for up to one year;
7. Recommending loss of contact visit privileges for up to one year provided the offense is specifically related to, or concerned with a visit program, except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c) through (e);
8. Recommending loss of recreation privileges for up to 180 calendar days provided the offense is specifically related to, or concerned with a recreation privilege;
9. 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

10. 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).

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

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

Substituted references to the Administrator for references to the Superintendent throughout; and in (a) and (b), added 11.

Amended by R.2000 d.143, effective April 3, 2000.

See: 32 N.J.R. 166(a), 32 N.J.R. 1216(a).

Inserted a new (d); and recodified former (d) as (e), and made an internal reference change in the introductory paragraph. Petition for Rulemaking.

Amended by R.2002 d.99, effective April 1, 2002.

See: 33 N.J.R. 4194(a), 34 N.J.R. 1426(a).

In (c), added "and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated;" following "privileges" in the introductory paragraph.

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

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

In (e), substituted "of" for "or" following "upon the recommendation" in the introductory paragraph and deleted ". (This shall be subject to confirmation by the Inter-Institutional Classification Committee.)" in 1.

Amended by R.2004 d.294, effective August 2, 2004.

See: 36 N.J.R. 1657(a), 36 N.J.R. 3552(a).

In (c), deleted former 3 and recodified former 4 through 12 as 3 through 11; added a new (d) and recodified former (d) through (e) as (e) through (f).

Amended by R.2005 d.132, effective May 2, 2005.

See: 37 N.J.R. 196(a), 37 N.J.R. 1522(a).

In (f), inserted "when approved" following "administrative action may be taken" in the introductory paragraph, inserted "and/or" preceding "television", deleted "; and contact visit" preceding "privileges" in 6, added new 7, 8, recodified existing 7, 8 as 9, 10.

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

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

Added new (e); recodified former (e) as (f); in (f), corrected typographical errors in two places, added "the" following "victim or"; recodified former (f) as (g); in the introductory paragraph of (g), substituted "this section" for "(a), (b), (c), (d) and (e) above"; in (g)7 added "through (e)" in two places.

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

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

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

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

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

Inserted "calendar" preceding "days" throughout; in (a)1 and (b)1, inserted "of"; rewrote (a)4, (a)6, (a)10, (b)6 and (b)10; and in (g)7, updated N.J.A.C. reference.

### 10A:4-5.2 (Reserved)

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).

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

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

Substituted references to the Administrator for references to the Superintendent throughout; in (a) and (b), added 11; and in (d)7, changed N.J.A.C. reference.

Amended by R.2000 d.143, effective April 3, 2000.

See: 32 N.J.R. 166(a), 32 N.J.R. 1216(a).

Inserted a new (d); and recodified former (d) as (e), and made an internal reference change in the introductory paragraph.

Petition for Rulemaking.

See: 34 N.J.R. 784(b).

Amended by R.2002 d.99, effective April 1, 2002.

See: 33 N.J.R. 4194(a), 34 N.J.R. 1426(a).

In (c), added "and ineligibility for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated;" following "privileges" in the introductory paragraph.

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

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

Rewrote (a)8; in (e)4, deleted "and subject to confirmation by the Inter-Institutional Classification Committee" after "Security Threat Group Management Unit".

Amended by R.2004 d.294, effective August 2, 2004.

See: 36 N.J.R. 1657(a), 36 N.J.R. 3552(a).

In (c), deleted former 3 and recodified former 4 through 12 as 3 through 11; added a new (d) and recodified former (d) through (e) as (e) through (f).

Amended by R.2005 d.132, effective May 2, 2005.

See: 36 N.J.R. 196(a), 37 N.J.R. 1522(a).

In (f), inserted "when approved" following "administrative action may be taken" in the introductory paragraph, inserted "and/or" preceding "television", deleted ", and contact person" preceding "privileges" in 6, added new 7, 8, recodified existing 7 as 9.

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

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

Added new (e); recodified former (e) as (f); in (f), corrected typographical errors in two places, added "the" following "victim or"; recodified former (f) as (g); in the introductory paragraph of (g), substituted "this section" for "(a), (b), (c), (d) and (e) above"; in (g)7 added "through (e)" in two places.

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

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

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

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

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

Section was "Schedule of sanctions for prohibited acts committed at the Youth Complex".

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

(a) All disciplinary charges pending when the inmate begins serving time in Disciplinary Detention must be adjudicated prior to the completion of the inmate's Disciplinary Detention time. No inmate may receive more than 15 calendar 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, the inmate may receive up to 15 calendar days for each disciplinary charge provided that the total time to be served in the Disciplinary Detention does not exceed 30 calendar 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 calendar days for each disciplinary charge provided that the total time to be served in Disciplinary Detention does not exceed 30 calendar days.

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

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

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

Inserted "calendar" preceding "days" throughout.

### 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 calendar 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.

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

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

Inserted "calendar".

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

(a) Disciplinary charges lodged against an inmate during the time the inmate is currently serving a 30 calendar-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 exceptional circumstances exist.

(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.

(c) If after review of all the reports and personal interviews with reporting staff that is deemed necessary to clarify facts or circumstances, the Administrator in charge of the Administrative Close Supervision Unit (ACSU) concludes that the inmate would pose a serious threat to persons or to the security or orderly operation of the Unit or correctional facility if released from detention, the Administrator shall schedule the case for a due process hearing before the Department's Disciplinary Hearing Officer.

(d) Prior to the hearing, the inmate shall be examined by a psychiatrist or psychologist to ascertain the inmate's mental condition, need for treatment or indication of need for transfer to a psychiatric facility (See N.J.A.C. 10A:16-13, Commitment for Psychiatric Treatment). The psychiatrist or psychologist shall visit the inmate at least once per month during the inmate's continued confinement in detention, and shall file a written report after each visit as to the inmate's mental condition and adjustment.

(e) The inmate shall receive at least 24 hours advance written notice on Form 251-I Chronic Violator Notice that the inmate is under consideration for designation as a chronic violator and that the inmate may have the assistance of an inmate paralegal at the scheduled hearing (See N.J.A.C. 10A:4-9, Disciplinary procedures and Form 251-I). The

notice shall include a copy of the disciplinary charges which form the basis for this action.

(f) The hearing shall be held in accordance with N.J.A.C. 10A:4-9 and may be held before the expiration of the inmate's 30 calendar-day term.

(g) If after review of all reports and testimony, the Disciplinary Hearing Officer or Adjustment Committee concludes that the inmate cannot safely be released from detention at the expiration of the 30 calendar-day term, the inmate shall be designated a chronic violator. The decision of the Disciplinary Hearing Officer/Adjustment Committee shall be referred to the appropriate Institutional Classification Committee (I.C.C.) for review and approval. The inmate shall remain in Disciplinary Detention until, at a subsequent hearing, the Disciplinary Hearing Officer determines that the inmate has demonstrated that the inmate will control his or her behavior and will refrain from repetitive acts of assault or destruction of property.

(h) A due process hearing shall be held every 15 calendar days to review the inmate's conduct and adherence to correctional facility regulations. The Disciplinary Hearing Officer shall review all disciplinary reports and shall ascertain from the reports, investigations, psychiatric evaluation and testimony where deemed necessary, whether the inmate's conduct is sufficiently under control to permit the inmate's safe release from detention.

(i) After the due process hearing has been completed, Form 251-II, Chronic Violator Adjudication Notice containing a written statement of the fact-findings shall be given to the inmate by the Disciplinary Hearing Officer. A copy of the due process hearing shall be kept in the Disciplinary Hearing Officers' records and in the inmate's classification folder.

(j) During the inmate's confinement as a chronic offender, a social worker and the custody staff supervisor or unit supervisor shall visit the inmate daily to monitor the inmate's needs and provide for programmatic involvement so far as is possible. The inmate shall be permitted to shower and participate in yard exercise as is consistent with correctional facility procedures, considering the safety of the inmate and the continued secure, orderly operation of the unit or correctional facility.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1989 d.136 effective March 20, 1989.

See: 21 N.J.R. 10(b), 21 N.J.R. 766(a).

References to Assistant Superintendents at the Administrative Close Supervision Unit (ACSU) and the Edna Mahan Correctional Facility for Women, added.

Amended by R.1990 d.34, effective January 16, 1990.

See: 21 N.J.R. 3240(a), 22 N.J.R. 232(a).

In (a), (b) and (c): deleted references to Vroom Readjustment Unit Director, the Assistant Superintendent in charge of the Administrative Close Supervision Unit at East Jersey State Prison, and the Superintendent of the Edna Mahan Correctional Facility for Women. Replaced references with the "administrator in charge of the Administrative Close Supervision Unit."