

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-3.3 Identification of incoming legal correspondence

(a) The return address on the outside of an envelope should clearly indicate that the correspondence is being sent from a legal correspondent as enumerated in N.J.A.C. 10A:18-1.3.

(b) Mail sent from a legal correspondent shall be considered legal correspondence and shall be handled in accordance with this subchapter.

(c) The absence of a particular name of an attorney or judge shall not preclude the correspondence from being treated as legal correspondence if the return address indicates an office or court as enumerated in N.J.A.C. 10A:18-1.3.

10A:18-3.4 Inspection of incoming legal correspondence

(a) Incoming legal correspondence shall be opened and inspected for contraband only.

(b) Incoming legal correspondence shall be opened and inspected only in the presence of the inmate to whom it is addressed.

(c) Incoming legal correspondence shall not be read or copied. The content of the envelope may be removed and shaken loose to ensure that no contraband is included. After the envelope has been inspected the correspondence shall be given to the inmate.

(d) The correctional facility may require that the inmate sign a slip acknowledging receipt of the incoming legal correspondence.

(e) Where there is substantial reason to believe that the incoming correspondence is not legal in nature or that it contains disapproved content pursuant to N.J.A.C. 10A:18-2.14, the Superintendent shall immediately notify the appropriate Assistant Commissioner. The incoming legal correspondence shall not be inspected in a manner other than as outlined in this subchapter without first obtaining instructions from the appropriate Assistant Commissioner.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (e), amended notification requirements.

Case Notes

Prison official entitled to qualified immunity; claim that First Amendment right to access to courts was violated when official read

inmate's legal mail during search for contraband. *Jordan v. New Jersey Dept. of Corrections*, D.N.J.1995, 881 F.Supp. 947.

Regulations preventing inmates from sending mail to public officials, government agencies or media were unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Regulations regarding incoming correspondence to inmates from public officials, government agencies, or media were not unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

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10A:18-3.5 Certified or registered mail

(a) Legal correspondence need not be sent by certified or registered mail.

(b) If an inmate has sufficient funds in his or her account to cover the costs of mailing and the inmate prefers to use certified or registered mail, the inmate shall be permitted to do so.

(c) The correctional facility shall not send the legal correspondence of indigent inmates via certified or registered mail.

10A:18-3.6 Proof of service

Inmates who have insufficient funds to send legal correspondence as certified or registered mail and who are concerned that they have no proof of service where regular mail is employed, shall be advised that under the rules of court, an affidavit of service filed with the clerk of the court shall be sufficient proof of service.

10A:18-3.7 Cost of mailing legal correspondence for nonindigent inmates

(a) If a nonindigent inmate has funds in his or her account, the nonindigent inmate shall be charged for the total cost of mailing legal correspondence.

(b) If the nonindigent inmate has temporarily overdrawn his or her account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the legal correspondence, the cost of mailing shall be handled in accordance with N.J.A.C. 10A:18-2.24.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Inserted nonindigent references and substituted N.J.A.C. reference for specific handling instructions.

10A:18-3.8 Cost of mailing legal correspondence by indigent inmates

(a) The correctional facility shall provide letter writing materials and shall assume the cost of mailing legal correspondence for indigent inmates as defined in N.J.A.C. 10A:1-2.2.

(b) The cost of mailing legal correspondence shall extend only to First Class or standard postage and shall not include:

1. Registered mail;
2. Certified mail; or
3. Insured mail.

Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (a), substituted N.J.A.C. reference for specific handling instructions; in (b), inserted reference to standard postage; and deleted (c), relating to status as indigent upon receiving job offer at facility.

10A:18-3.9 Forwarding legal correspondence to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying his or her correspondents of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all regular incoming legal correspondence to the correctional facility to which the inmate has been transferred.

(c) Any legal correspondence received after the three month period shall be returned to the sender.

10A:18-3.10 Forwarding legal correspondence to an inmate released on parole or released after expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether legal correspondence received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the legal correspondence to him or her.

(d) The correctional facility shall not forward certified or registered mail, but shall return it to the sender.

(e) Legal correspondence shall be forwarded for a maximum of three months from the date of the inmate's release. Legal correspondence received thereafter shall be returned to the sender.

10A:18-3.11 Forwarding legal correspondence to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, legal correspondence received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding an inmate's legal correspondence when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes the legal correspondence forwarded.

10A:18-3.12 Forwarding legal correspondence of an inmate who has escaped

(a) All incoming legal correspondence addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the incoming legal correspondence does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified, the correspondence shall be destroyed.

10A:18-3.13 (Reserved)

Repealed by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Section was "Inmate use of inter-office correspondence".

SUBCHAPTER 4. PUBLICATIONS**10A:18-4.1 Notice to inmates**

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of publications by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding publications shall be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding publications.

(d) New or revised rules and procedures regarding publications shall be incorporated into the next revision of the Inmate Handbook.