

CHAPTER 18

MAIL, VISITS AND TELEPHONE

Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

Chapter 18, Mail, Visits and Telephone, expires on October 6, 2002.

Chapter Historical Note

Chapter 18, Mail, Visits and Telephones, was adopted as R.1987 d.263, effective July 6, 1987. See: 19 N.J.R. 33(b), 19 N.J.R. 1214(b).

Pursuant to Executive Order No. 66(1978), Chapter 18 was readopted as R.1992 d.262, effective May 27, 1992. See: 24 N.J.R. 1204(b), 24 N.J.R. 2627(a). Subchapter 7, Bedside and Funeral Visits, was renamed as Subchapter 7, Bedside, Private Viewing, and Funeral Visits, by R.1996 d.489, effective October 21, 1996. See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b). Pursuant to Executive Order No. 66(1978), Chapter 18 expired on May 27, 1997.

Chapter 18, Mail, Visits and Telephone, was adopted as R.1997 d.431, effective October 6, 1997. See: Source and Effective Date.

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SUBCHAPTER 1. INTRODUCTION

10A:18-1.1 Purpose

(a) The purpose of this chapter is to establish guidelines for:

1. Permitting inmates to correspond with persons or entities outside the correctional facility;
2. Processing legal correspondence in correctional facilities;
3. Inmates sending and receiving publications;
4. Inmates sending and receiving packages;
5. Contact and non-contact visits with inmates;
6. Beside, private viewing and funeral visits by an inmate to a dying or deceased relative; and
7. Inmate access to and use of the telephone.

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)6, inserted "private viewing".

10A:18-1.2 Scope

This chapter shall be applicable to State correctional facilities under the jurisdiction of the Department of Corrections, unless otherwise indicated, and to inmates housed in facilities under the jurisdiction of the Department of Corrections.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Substantially amended section.

10A:18-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Correspondence" means communication by the exchange of letters.

"Inmate Liaison Committee" means a group of inmate representatives, authorized by the correctional facility administration to act on behalf of the correctional facility inmates.

"Interoffice correspondence" means the exchange of correspondence between offices within the Department of Corrections.

"Legal correspondence" means the exchange of letters between an inmate and:

1. An attorney of this State or any other state when properly identified as such on the outside of the envelope;
2. A State Public Defender;
3. Attorney General's office;
4. Federal and State courts;
5. Federal and State court judges;
6. Offices of Legal Services;
7. Legal assistance clinics run by accredited law schools of this or any other state;
8. Administrative Office of the Courts;
9. Prosecutors' offices;
10. Federal Public Defender;
11. Department of Corrections' Internal Affairs Unit;
12. Department of Corrections' Ombudsmen; and
13. Office of Administrative Law.

"Legal material" means papers or documents that are required to be filed with the court and served upon opposing parties. Legal material does not include papers or documents sought in the discovery process by the inmate. Legal material includes:

1. Orders required by these terms to be served;

2. Pleadings;
3. Written notices;
4. Written motions;
5. Demands, or answers to demands which the inmate is required to serve, such as, for the production of documents and interrogatories;
6. Offers of judgment;
7. Designations of record on appeal;
8. Briefs;
9. Petitions;
10. Summons; and
11. Complaints.

“Legitimate public official” means the following:

1. An elected or appointed national, state or municipal government official; or
2. A director of a national, state or municipal government agency.

“News media representative” means a person whose principal employment is to gather or report news for:

1. A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of “general circulation” if it circulates among the general public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial or social affairs. A key test to determine whether a newspaper qualifies as a “general circulation” newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes;
2. A news magazine which has a national circulation and is sold by news-stands and by mail subscription to the general public;
3. A national or international news service; or
4. A radio or television news program, whose primary purpose is to report the news, of a station holding a Federal Communications Commission license.

“Pat-search” means a thorough search of a fully clothed person, including the clothing and personal property in the person’s possession.

“Reasonable suspicion” means a belief that an action is necessary based upon specific and articulable facts that taken together with rational references from those facts, reasonably support a conclusion, such as, that a visitor is carrying or concealing contraband.

“Relative” means:

1. Father;
2. Mother;
3. Husband;
4. Wife;
5. Child;
6. Brother; or
7. Sister.

“Strip search” means a thorough and systematic examination of an unclothed person’s body and orifices including visual inspection of external genital and anal areas, as well as the person’s clothing and all personal items in possession of the person at the time.

“Truck mail” means interoffice mail that is exchanged between correctional facilities and mail that is exchanged between correctional facilities and the Department of Corrections’ Central Office. Truck mail does not include mail sent by the United States Postal Service.

Amended by R.1991 d.413, effective August 5, 1991.
See: 23 N.J.R. 1758(a), 23 N.J.R. 2312(a).

Added definition of “Legitimate public official”.
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Added “Reasonable suspicion”; amended “Inmate Liaison Committee”, “Legal correspondence”, “Legal material”, “Strip search”, and “Truck mail”; renamed “Inter-office correspondence” to read “Interoffice correspondence”; and renamed “Pat-frisk” to read “Pat search” and amended.

Cross References

Identification of correspondence, see N.J.A.C. 10A:18-3.2, 10A:18-3.3.

Relatives, visitors, see N.J.A.C. 10A:18-6.3.

10A:18-1.4 Forms

(a) The following form related to Mail, Visits and Telephone shall be reproduced by each correctional facility from the original that is available by contacting the Standards Development Unit:

1. 292-I Request for Attorney-Client Contact Visit.

New Rule, R.1991 d.155, effective March 18, 1991.
See: 23 N.J.R. 14(a), 23 N.J.R. 859(c).
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

SUBCHAPTER 2. CORRESPONDENCE

10A:18-2.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of correspon-

dence 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 correspondence 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 correspondence.

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

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

10A:18-2.2 Limitation on number of correspondents

The number of approved correspondents and the amount of correspondence an inmate may receive or send shall be unlimited.

10A:18-2.3 Limitation on number of postage stamps

Each correctional facility shall establish a limit of stamps (40 or less) that inmates may possess that is consistent with the maintenance of security and the orderly operation of the correctional facility.

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

10A:18-2.4 Correspondence in language other than English

All State correctional facilities shall permit incoming and outgoing correspondence of the inmates to be in a language other than English.

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

10A:18-2.5 Correspondence to or from other inmates

All inmate correspondence to or from other inmates housed in other correctional facilities may be read to ensure that the correspondence does not contain any content prohibited by N.J.A.C. 10A:18-2.14.

Amended by R.1989 d.318, effective June 19, 1989.
See: 21 N.J.R. 837(a), 21 N.J.R. 1701(a).

Deleted reference to correctional facilities "within this State" thus authorizing reading of materials coming or going, within or outside of New Jersey.

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

10A:18-2.6 Inspection and identification of incoming correspondence

(a) Each piece of incoming correspondence shall be opened and inspected.

(b) The sender's name and address and the inmate's name and number should appear legibly on the outside of all incoming correspondence.

(c) The inmate's name and number shall appear on the outside of the incoming correspondence. Correspondence without either the inmate's name or number shall be returned to the sender.

(d) If either the sender's name or address does not appear but the inmate's name and number do appear on the outside of the incoming correspondence, the correspondence may be delivered to the inmate after the correspondence has been opened and inspected for contraband.

(e) When the inmate's name or number and the sender's name and address do not appear on the outside of the incoming correspondence, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(f) If it is necessary to return correspondence to a sender and the return address is incomplete, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(g) Incoming correspondence shall be opened and inspected for contraband, but it shall not be read unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 10A:18-2.14. If there is reason to believe that the correspondence contains disapproved content, the correspondence shall be read only upon prior authorization of the Superintendent or designee.

(h) A confidential list of the names of inmates whose incoming correspondence is authorized to be read shall be established and maintained in the correctional facility's Internal Affairs Unit or mail room, or wherever the confidentiality of the list can be maintained.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (b): changed "shall" to "should."

In (c): changed "and" to "or" regarding inmate's name "or" number. Added new (d) and (e) and recodified old (d)-(f) to new (f)-(h).

In (f): deleted text regarding the opening of inmate's correspondence and added language describing new procedures.

In (g): revised text to specify procedures on inspecting incoming correspondence.

In (h): added language "names of inmates whose" ... and "authorized to be read"; changed "investigative unit" to "Internal Affairs Unit."

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

In (g), inserted "pursuant to N.J.A.C. 10A:18-2.14".

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.

(b) No inmate shall be denied approval for a bedside, private viewing, or funeral visit solely because of the inability of the inmate and his or her family to pay travel and other expenses. In the event that an inmate is indigent and it can be verified that the inmate's family is unable to reimburse the correctional facility for the expenses of a bedside, private viewing, or funeral visit, the correctional facility shall assume the expenses of the visit.

(c) The Business Office of the correctional facility shall predetermine the expenses claimed for reimbursement upon the approval by the Superintendent.

(d) In accordance with N.J.A.C. 10A:3-9.13(c), a detailed written statement of expenses shall be prepared to determine the amount of reimbursement due.

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.
Administrative correction.

See: 28 N.J.R. 5074(a).

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

In (d), substituted N.J.A.C. reference for specified criteria.

10A:18-7.9 Notification of Central Office

All bedside, private viewing, and funeral visits shall be noted in the Superintendent's monthly report.

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.

Administrative correction.

See: 28 N.J.R. 5074(a).

SUBCHAPTER 8. TELEPHONE

Law Review and Journal Commentaries

ACLU Plans Suit to Challenge Prison Censorship. Hanna W. Rosin, 132 N.J.L.J. No. 13, 3 (1992).

10A:18-8.1 Written procedures

(a) Each correctional facility shall develop and implement written procedures which provide inmates with reasonable and equitable access to public telephones. These procedures shall specify:

1. Hours of telephone availability;
2. Maximum length of telephone calls; and
3. Any limitation on telephone calls.

10A:18-8.2 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding telephone calls 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 telephone calls 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 telephone calls.

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

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

10A:18-8.3 Monitoring of telephone calls

All inmate telephone calls may be monitored and recorded except legal telephone calls which are made in accordance with N.J.A.C. 10A:18-8.6.

Amended by R.1998 d.93, effective February 17, 1998.

See: 29 N.J.R. 4735(a), 30 N.J.R. 674(a).

Rewrote (a) adding language which allows the Department of Corrections to monitor and/or record all inmate telephone calls with the exception of legal telephone calls; and deleted former (a), (b), and (c).

10A:18-8.4 Cost of telephone calls

Outgoing telephone calls made by inmates shall be collect calls with the exception of telephone calls between incarcerated relatives which shall be handled in accordance with N.J.A.C. 10A:18-8.7.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1997 d.431, effective October 6, 1997.

See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Deleted McCorkle Training School for Boys and Girls exception to collect calls requirement and substituted "relatives" for "family members".

10A:18-8.5 Emergency telephone calls

(a) An inmate shall be permitted to make monitored telephone calls of reasonable length, as determined by the monitor, in emergencies such as:

1. The serious illness of a relative;
2. The death of a relative; or
3. Impending disaster related to the inmate's property which cannot be deferred until regular mail delivery.

(b) Whenever an emergency telephone call for an inmate is received by the correctional facility:

1. The telephone number and name of the calling party shall be taken;
2. The particulars of the telephone call shall be noted;
3. The Social Service Department shall check, to the extent possible, the validity of the telephone call;

4. The Social Service Department shall inform the inmate of the validated telephone call within 24 hours from the time the call was received; and

5. The inmate shall be permitted to return the emergency telephone call.

(c) In the event emergency telephone calls are received after regular correctional facility working hours, on weekends or holidays and a social worker is not available to perform the duties in (b) above within 24 hours, a custody supervisor on duty shall check the validity of the emergency telephone call and follow the procedures outlined in (b) above.

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

10A:18-8.6 Legal telephone calls

(a) The Superintendent of the correctional facility shall establish written rules and regulations by which legal telephone calls may be made by:

1. Inmates;
2. Inmate paralegals; and
3. Professional staff.

(b) Legal telephone calls may be made to the following individuals or agencies for assistance in legal research and/or preparation of legal documents:

1. Office of the Public Defender;
2. Regional Legal Services;
3. Court Clerks;
4. Attorneys; and
5. Ombudsmen.

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

In (b), deleted "Office of the Public Advocate" from list of approved individuals or agencies.

Amended by R.1998 d.93, effective February 17, 1998.
See: 29 N.J.R. 4735(a), 30 N.J.R. 674(a).

In (b)4, deleted "of Record" preceding "attorneys" and deleted (b)6.

10A:18-8.7 Telephone calls between incarcerated relatives

(a) Telephone calls shall be permitted between incarcerated relatives (see N.J.A.C. 10A:18-1.3).

(b) Telephone calls between incarcerated relatives shall be permitted if:

1. The relative relationship has been substantiated through documentation found in the classification folder or other appropriate resources;

2. The telephone calls have been approved by the Institutional Classification Committee (I.C.C.);

3. The full costs of the telephone calls are borne by the inmates involved; and

4. The frequency, duration and time of the calls are coordinated between the correctional facilities involved, subject to other provisions of this subchapter.

Amended by R.1988 d.238, effective June 6, 1988.
See: 20 N.J.R. 496(c), 20 N.J.R. 1229(a).

(a)4 substituted "siblings" for "brother and sister".
Amended by R.1997 d.431, effective October 6, 1997.
See: 29 N.J.R. 2769(a), 29 N.J.R. 4311(c).

Substituted reference to relatives for reference to family members throughout.

10A:18-8.8 Telephone use by authorized inmate groups

(a) Correctional facilities are not obligated to provide direct telephone lines to inmate groups or organizations.

(b) Authorized inmate groups and organizations may be permitted to make telephone calls to achieve approved objectives of that group in accordance with written rules and regulations established by the Superintendent.

(c) Authorized groups and organizations shall assume the cost of telephone calls that are made in furtherance of their approved objectives.

(d) Telephone calls may be monitored at the Superintendent's discretion.

10A:18-8.9 Telephone use in Close Custody Units

Inmate access to telephones in Close Custody Units shall be governed by N.J.A.C. 10A:5, Close Custody Units.

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