

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Classification Assignment Process for Juveniles

Proposed Readoption with Amendments: N.J.A.C. 13:100

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Paula T. Dow, Attorney General and Chair, Carolyn Murray, Attorney General's Designee.

Authority: N.J.S.A. 52:17B-170e(5) to (9), (14), (18), (20) to (22); N.J.S.A. 52:17B-175(e); N.J.S.A. 52:17B-176; N.J.S.A. 52:17B-178; and N.J.S.A. 52:17B-186.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-258.

Submit written comments on or before December 31, 2010 to:

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New Jersey Juvenile Justice Commission
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The agency proposal follows:

Summary

The Juvenile Justice Commission (Commission) is proposing to readopt with amendments the rules found at N.J.A.C. 13:100.

These rules govern the classification and assignment of juveniles sentenced by the Family Court to a term of incarceration to be served under the supervision of the Commission. The chapter was adopted effective October 3, 2005 (see 37 N.J.R. 1168(a) and 3851(a)), and is scheduled to expire on April 1, 2011, pursuant to N.J.S.A. 52:14B-5.1c.

The Commission has reviewed these rules and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

As proposed to be readopted, N.J.A.C. 13:100 contains 11 sections set out in two subchapters.

Subchapter 1, General Provisions, contains three sections that set out the purpose and scope of the rule and contain definitions used in the chapter.

Subchapter 2, Reception and Assignment Process, consisting of eight sections, provides the criteria for assigning juvenile offenders received in the Commission's Reception and Assessment Facilities. N.J.A.C. 13:100-2.1 provides separate and distinct reception, assessment and assignment processes for male and female juveniles and requires that except for educational and recreational activities, the male and female facilities shall be sight and sound separated. The section further provides time limits by which reception and assessment activities shall be completed and outlines the activities that shall be completed during the reception, assessment and assignment process. The rule also provides that each juvenile shall be provided with an orientation to explain his or her rights, privileges and responsibilities, and the process for developing an admissions summary to determine the risk factors and rehabilitative needs of the juvenile.

N.J.A.C. 13:100-2.2 establishes the composition of the classification committees.

N.J.A.C. 13:100-2.3 explains the responsibilities of the classification committee responsible for the initial classification, assignment, transfer and reassignment of juvenile offenders within the Commission or to the Department of Corrections. The rule sets forth the criteria to be used by the classification committee in making initial assignments to the appropriate secure or non-secure Commission facility and provides a description of the eligibility requirements for assignment to those facilities.

N.J.A.C. 13:100-2.4 sets forth the criteria for juveniles ineligible for assignment to a non-secure facility.

N.J.A.C. 13:100-2.5 and 2.6 delineate the process for emergency and non-emergency transfers of a juvenile.

N.J.A.C. 13:100-2.7 provides the procedure to be used if a juvenile requests a transfer to another Commission facility.

N.J.A.C. 13:100-2.8 provides for the location where classification folders will be maintained for all juveniles assigned to a term of incarceration under the supervision of the Commission and also requires that an electronic back-up file be maintained at the Commission's Office of Classification.

The Commission is proposing to readopt N.J.A.C. 13:100 with four amendments to existing operational provisions, with related amendments to the rule's definitions.

The Commission proposes to eliminate the formal distinction between "juvenile classification committees" and "institutional classification committees." Though their immediate purposes differ, their functional differences are minimal -- juvenile classification

committees make decisions related to the assignment or reassignment of juveniles to Commission facilities, whereas institutional classification committees, in the context of N.J.A.C. 13:100, are the body called upon to address requests for transfer under the provisions of N.J.A.C. 13:100-2.6 and 2.7. Because the multi-disciplinary skills necessary for these committees and the pool of staff assigned are the same, the Commission proposes to eliminate the two distinct committees, replacing them with “classification committees” throughout the rules. Related to these changes, the Commission also proposes to eliminate the definitions for “Juvenile Classification Committee” and “Institutional Classification Committee” and to add a new definition for “Classification Committee” in N.J.A.C. 13:100-1.3, Definitions.

The Commission proposes to delete N.J.A.C. 13:100-2.2(b), which specifies personnel to be included on a classification committee. The Commission proposes to delete a provision requiring that one or more representatives on a classification committee for male juveniles be drawn from the former Life Skills and Leadership Academy, as that institution no longer exists. In addition, the Commission, without making a substantive change, proposes to replace longer verbiage with a simple requirement that committee members be drawn from both secure and non-secure operating units of the Commission.

The Commission also seeks to amend provisions of N.J.A.C. 13:100-2.1 and 2.3 that identify specific documents that must be used in the classification process. N.J.A.C. 13:100-2.1(e) requires that results of initial intake classification be recorded on the juvenile's “Comprehensive Information Assessment” form. The Commission proposes to replace reference to this form with a more generic “comprehensive information format maintained

for individual juveniles.” Similarly, N.J.A.C. 13:100-2.3(c)2 requires consideration of a juvenile’s “Reclassification and Custody Document Score” when making determinations on the reassignment and transfer of a juvenile through a classification committee, and the Commission proposes to replace this form with the more generic “objective classification scores.”

Finally, the Commission proposes to modify restrictions found in N.J.A.C. 13:101-2.4 that prohibit assignment to a non-secure facility when a committed juvenile is adjudicated for conduct involving homicide, a sex offense or an offense involving fire-setting behavior. The proposed amendment would allow a juvenile committed for conduct involving a sex offense to be assigned to a community program facility that has a sex offender treatment program.

Because the Commission has provided for a 60-day comment period on the notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments have a positive social impact; they ensure that juveniles are provided classification services from admission through discharge. The rules also assure that the Commission carefully reviews and assesses the needs of each juvenile upon admission and on an on-going basis. The classification process provides a framework for selecting the specific facility, custody level, services, housing unit, job and program assignment for a juvenile that will best facilitate rehabilitation and

reintegration back into the community, while also allowing for the orderly operation of the Commission's facilities. In addition, the proposed amendment to N.J.A.C. 13:100-2.4 will have a positive social impact by promoting appropriate treatment for juveniles committed for sex offenses.

Economic Impact

The proposed readoption of these rules with amendments will have no new or additional economic impact. As proposed for readoption the rules have been in effect since October 3, 2005, and no changes are being proposed that would impose any new or additional costs. The costs of meeting and maintaining the requirements established by the rules proposed for readoption are met through the established budget process with funds allocated by the State.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not being promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The rules proposed for readoption with amendments will not result in an increase or decrease in the number of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required. The rules proposed for readoption with amendments will impose no reporting, recordkeeping or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and will have no effect on small businesses because the rules concern only juveniles sentenced to a term of incarceration to be served under the supervision of the Commission.

Smart Growth Impact

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern

only juveniles sentenced to a term of incarceration to be served under the supervision of the Commission.

Smart Growth Development Impact

The rules proposed for readoption with amendments will not have an impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules concern only juveniles sentenced to a term of incarceration to be served under the supervision of the Commission.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:100.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

13:100-1.3 Definitions

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

...

"Classification Committee" means a group of Commission staff members that

have been designated to make decisions related to the assignment or reassignment of juveniles to Commission facilities and to programs and activities within Commission facilities.

...

["Institutional Classification Committee (ICC)" means a group of Commission staff members that have been designated to make decisions related to the assignment or reassignment of juveniles to programs and activities within a Commission facility and to conduct initial reviews of juvenile requests for transfer to another such facility.]

...

["Juvenile Classification Committee (JCC)" means a group of Commission staff members that have been designated to make decisions related to the assignment or reassignment of juveniles to Commission facilities.]

...

SUBCHAPTER 2. RECEPTION AND ASSIGNMENT PROCESS

13:100-2.1 Initial reception

(a) – (d) (No change.)

(e) During the initial reception process, a detailed social history and medical/dental examination, including a substance abuse evaluation, shall be completed for each juvenile[,] and assessments shall be made with respect to the juvenile's psychological, educational and vocational needs. Every juvenile shall be evaluated and assessed by a

child study team, and Individual Education Programs, as defined and required under provisions of the Individual with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 et seq., and Section 504 Plans, as defined and provided for under the Rehabilitation Act of 1973, 29 U.S.C. §§701 et seq., shall be developed or revisited for juveniles identified as having disabilities as defined in those statutes. All results shall be recorded [on the juvenile's Comprehensive Information Assessment (CIA) form] **in a comprehensive information format maintained for individual juveniles.**

(f) – (g) (No change.)

(h) At the end of the reception and assessment process, the juvenile shall appear before [the JCC] **a Classification Committee** for assignment to an appropriate Commission facility.

13:100-2.2 [Juvenile] Classification Committees

(a) A separate [Juvenile] Classification Committee shall be established for male and for female juveniles, each of which shall be chaired by the Director of Operations or [his or her] designee. Additional members shall be appointed by the Executive Director, or [his or her] designee, and shall [include representatives from:] **be drawn from both secure and non-secure operating units of the Commission.**

[1. Secure facilities;

2. Non-secure facilities; and

3. The Commission's Office of Substance Abuse.]

[(b) In addition to the members in (a) above, the Executive Director or his or her

designee shall appoint one or more representatives from the Commission's Life Skills and Leadership Academy to the JCC for male juveniles.]

[(c)] **(b)** [The JCC] **Classification Committees** shall meet as needed, but in any event not less frequently than biweekly. Minutes shall be kept of all meetings and shall be maintained on the Juvenile Information Management System (JIMS), or on such other computerized information management system as may be determined by the Executive Director.

13:100-2.3 Responsibilities of [a Juvenile] Classification Committees

(a) [Each Juvenile] Classification Committees shall be responsible for determining the classification, initial assignment and transfer of juveniles to, between and from Commission facilities. Assignments and transfers contemplated herein include, but are not necessarily limited to those:

1.-3. (No change.)

(b) (No change.)

(c) Subsequent reassignment and transfer of a juvenile through a [Juvenile]

Classification Committee shall be based upon:

1. (No change.)

2. The juvenile's [Reclassification and Custody Document Score] **objective classification scores;**

3. - 5. (No change.)

13:100-2.4 Juveniles ineligible for assignment to non-secure facilities

(a) Assignment of a juvenile to a non-secure facility is prohibited when:

1. The commitment being reviewed involves a homicide[, a sex offense] or an offense involving fire-setting behavior;

2. - 3. (No change.)

(b) A juvenile committed for conduct involving a sex offense may be assigned to a non-secure facility, provided that the non-secure facility has a program specifically designed to treat sex offenders.

13:100-2.5 Emergency transfer procedures

(a) A request for an emergency transfer of a juvenile may be made by the Superintendent, and shall be directed to the Director of Operations or [his or her] designee, in such form and with such supporting documentation as the Director of Operations shall require.

(b) [The] **As soon as feasible, the** Director of Operations or [his or her] designee shall [immediately] review a request and approve or reject the transfer of the juvenile in writing, setting forth the reasons for approval or rejection. If approved, the requesting facility shall notify the receiving facility in order to make the arrangements necessary to effectuate the transfer.

(c) The Superintendent of the receiving facility shall schedule the transferred juvenile for review by the next meeting of the [JCC] **relevant Classification Committee.**

13:100-2.6 Non-emergency transfers

A staff recommendation for a non-emergency transfer of a juvenile shall be referred to the appropriate [Institutional] Classification Committee, which shall make a decision on the appropriateness of the recommendation at its next scheduled meeting.

13:100-2.7 Juvenile requests for transfer

(a) A juvenile has the right to make a request for transfer to another Commission facility. All such requests shall be in writing and submitted to a social worker. The written request shall include the juvenile's name, current facility, the name of the facility the juvenile is seeking to transfer to[,] and the reason for the transfer request. The social worker shall forward the juvenile's written request to other personnel, as appropriate, and to the appropriate [Institutional] Classification Committee for further consideration.

[(b) If the Institutional Classification Committee determines that the juvenile may satisfy the criteria for assignment to the requested facility, the request shall be referred to the appropriate JCC for further consideration.]

[(c)] **(b)** When considering a juvenile's request for transfer to another facility, [the Institutional] Classification Committees [and the JCC] shall consider the same factors as set forth in N.J.A.C 13:100-2.3(c).

[(d)] **(c)** (No change in text.)