

RULE PROPOSALS

INTERESTED PERSONS

The Department of Corrections provides notices of rule proposals in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all State agency rule proposals and adoptions. The following paragraph is quoted from the Proposal section of the New Jersey Register:

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CORRECTIONS

THE COMMISSIONER

Classification Process

Proposed Readoption with Amendments: N.J.A.C. 10A:9

Authorized By: Gary M. Lanigan, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10; and the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. § 15601.

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

Proposal Number: PRN 2014-221.

Submit written comments by March 6, 2015, to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:9, Classification Process, was scheduled to expire on November 14, 2014. Pursuant to N.J.S.A. 52:14B-5.1(c)(2), as the Department of Corrections ("Department" or "NJDOC") submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration is

extended 180 days to May 13, 2015. The Department has reviewed these rules and, with the exception of the amendments proposed, has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules are, therefore, proposed for readoption at this time.

Several amendments are proposed throughout the chapter to reorganize rule provisions, correct minor errors in grammar, improve sentence structure, for purposes of clarification, to replace certain terms with more appropriate or accurate words, to reflect current Departmental policy, practice, and procedure, to set forth current titles and unit names, and to add citations or cross-references, where indicated, for clarity and ease of use. More specifically:

Subchapter 1 sets forth the purpose and scope of the chapter, definition of words and terms used and a list of forms utilized in conjunction with this chapter.

At N.J.A.C. 10A:9-1.3, new definitions are proposed in order to provide meanings for new and previously undefined terms used in the chapter. These terms include: custody status, detainer, mandatory minimum term, non-permissible, objective classification, permissible, pre-sentence investigation report, and Prison Rape Elimination Act. The definition of “reduced custody status” is proposed for amendment to clarify the Department’s definition by adding three specific examples of minimum custody. Additionally, the definition of “security level” has been modified to remove the reference to a “numerical rating” since this is inaccurate.

At N.J.A.C. 10A:9-1.4, reference to the “Office of Classification Monitoring and Support Services” has been modified to the “Office of Classification Services,” which more accurately identifies this unit.

Subchapter 2 establishes the guidelines for the Objective Classification System. Numerous changes are necessary due to the fact that the NJDOC has been operating under a rule exemption for this process since 2010.

The objective classification process ensures standardized and systematic evaluation of inmates for custody status. Custody status designation is the primary basis by which the Department makes classification decisions regarding inmate correctional facility assignment and eligibility for inmate programs, such as residential community programs. Objective classification is designed to be fair, assess criteria proven to be predictive of inmate behavior, and to assign the least restrictive custody status to inmates commensurate with their risk to the community. Classification scoring instruments containing assessment scales are currently used to evaluate inmates relative to objective criteria and to assign rating points on the scoring instruments. The sum total on a scoring instrument represents the objective classification score that establishes the recommended inmate custody status.

In 2010, in an ongoing effort to maintain valid, objective, and balanced classification practices, the Department received a revalidation of the Objective Classification System conducted by Dr. James Austin of the JFA Institute through a cooperative agreement with the National Institute of Corrections (NIC) within the U.S. Department of Justice (hereafter referred to as the “Revalidation Study”). The Revalidation Study, based on NIC standards, was conducted to help ensure that objective classification scores continue to achieve the goal of being predictive of successful placement in reduced custody status.

The Revalidation Study was conducted, in part, to assess point values assigned for all inmates during classification scoring and determined that certain existing point values should be revised in the objective classification assessment process to help ensure that classification scoring for inmates achieves the goal of being predictive of successful placement in reduced custody status. Accordingly, point values at certain levels of the Severity of Offense Scale at N.J.A.C. 10A:9-2.8 have been amended, as more fully described below.

N.J.A.C. 10A:9-2.1(f) sets forth provisions for the initial classification process and notes that the inmate’s recommended custody status is decided by the Institutional Classification Reception Committee (I.C.R.C.).

N.J.A.C. 10A:9-2.3 sets forth provisions for administering the appropriate Objective Classification scoring instrument. Previously silent in the chapter, it is appropriate for all inmates released upon the completion of his or her Administrative Segregation sanction to be

scored on the Reclassification Instrument because this instrument will take into account the recent disciplinary(ies). As such, this category has now been added to N.J.A.C. 10A:9-2.3(b)6 with cross-references to it appearing at N.J.A.C. 10A:9-2.3(a)3 and (b)4.

N.J.A.C. 10A:9-2.4, 2.5, 2.6, and 2.7 sets forth provisions for the objective criteria for male and female inmates. References to “parole violator” have been removed because all inmates in the custody of the NJDOC are scored in the same manner.

N.J.A.C. 10A:9-2.4, 2.5, 2.6, and 2.7 reference the point values associated with the Severity of Offense Scale (N.J.A.C. 10A:9-2.8) for each instrument and eliminates the need to identify each offense level’s individual point value, which was previously scattered throughout N.J.A.C. 10A:9-2.8. Additionally, amendments are proposed to correct previously cited point values and at N.J.A.C. 10A:9-2.4 (male inmates) and 2.5 (female inmates) for the Initial Instrument, and N.J.A.C. 10A:9-2.6 (male inmates) and 2.7 (female inmates) for the Reclassification Instrument. These amendments are:

- For the Initial Instrument, an offense at the Highest severity level was previously designated to receive six points, and is now corrected to conform with the current usage of seven points;
- For the Initial Instrument, an offense at the High severity level was previously designated to receive four points, and is now corrected to conform with the current usage of five points;
- For the Initial Instrument, an offense at the Moderate severity level was previously designated to receive two points, and is now corrected to conform with the current usage of three points;
- For the Initial Instrument, an offense at the Low Moderate severity level was previously designated to receive zero points, and is now corrected to conform with the current usage of one point;
- For the Initial Instrument with regard to Prior Assaultive Offense History, Low severity level was previously designated to receive zero points, and is now corrected to conform with the current usage of one point;
- For the Reclassification Instrument, with regard to the Severity of Offense, an offense at the Moderate severity level was previously designated to receive two points, and is now corrected to conform with the current usage of three points; and
- For the Reclassification Instrument, with regard to the Prior Assaultive Offense History, an offense at the Low Moderate and Low severity levels was previously designated to receive zero points, and is now corrected to conform to the current usage of one point.

To clarify the Department’s definition of institutional violence, and to conform to its current usage, N.J.A.C. 10A:9-2.4(c)4, 2.5(c)4, 2.6(b)3, and 2.7(b)3 are proposed for amendment to add that a criminal conviction for any of the listed offenses (with or without a weapon) qualify as institutional violence.

The number of points assigned to inmates currently on a program waiting list have been decreased from minus one to minus two at N.J.A.C. 10A:9-2.6(b)8 and 2.7(b)8, and this category of inmate has been combined with subparagraph (b)8iii of the respective sections. Technical, grammar, and formatting amendments are also proposed to subparagraphs (b)8i and ii of the respective sections.

When assessing an inmate’s prior felony convictions, the wording “within the last 10 years” is proposed to be added to N.J.A.C. 10A:9-2.4(c)5 and 2.5(c)5 to accurately reflect the process, which has been standard Departmental policy since the original Revalidation Study in 2003.

When scoring inmates on the Reclassification Instrument, the language of “of incarceration” is proposed to be added to N.J.A.C. 10A:9-2.6(b)5 and 2.7(b)5 and 6 to clarify the standard Departmental practice.

New criminal offenses have been added to the Severity of Offense Scale in N.J.A.C. 10A:9-2.8(b) and (c) based on current law and include: Death by Auto and Firearms, Other Dangerous

Weapons and Instruments of Crime. N.J.A.C. 10A:9-2.8(e)2 is proposed for amendment to expand an item on the severity of offense scale to include Failure to Register as a Sex Offender 3rd degree, as well as 4th degree. These changes conform with legislation since the last amendment to this section. N.J.A.C. 10A:9-2.8(a) is proposed for amendment to refer to the prior four sections of the chapter for the point values, as proposed for amendment and discussed above.

N.J.A.C. 10A:9-2.9(a)2 and 3, as well as N.J.A.C. 10A:9-2.10(a)2 and 3, are proposed for amendment to correct technical errors and grammar and to simplify text related to reclassification scoring in connection with escape history. N.J.A.C. 10A:9-2.11 and 2.12 establish the Institutional Violence Scale for male and female inmates. In these sections, the references to an offense involving a weapon or causing serious injury are deleted because the Revalidation Study indicates that no statistical difference exists between violent offenses with a weapon and/or causing serious injury and those offenses without either. Additionally, references to seven points (male) and five points (female) have been deleted for the same reason. The NJDOC has been operating under a rule exemption for this process since 2010. These amendments codify current Departmental practice and procedure.

Point values have been added to the Disciplinary Infraction Scale in N.J.A.C. 10A:9-2.13 for ease of use since they were previously scattered throughout this subchapter. New N.J.A.C. 10A:9-2.13(a)6 is proposed for “None” (0 points).

N.J.A.C. 10A:9-2.14 sets forth provisions for the Override Code Reference Index. The Revalidation Study determined that there is no data to support reduced custody restrictions based solely on drug treatment refusals or non-participation. Therefore, the G-2 and I-1 override code were eliminated and override codes I-2 and I-3 were combined into a new “I” override code for specialized medical or psychological/psychiatric treatment. The NJDOC has been operating under a rule exemption for this process since 2010. Override codes L-5 through L-8 are no longer applicable when considering if an inmate would be successful in a lower-than-recommended custody status. Language was deleted from the descriptions of override codes A and E-2, to avoid redundancy, and to more accurately reflect the nature of the custody status, respectively.

Proposed new N.J.A.C. 10A:9-2.14(d) is added to clarify when it is not necessary to rescore an inmate, which conforms to Departmental practice and procedure.

Subchapter 3 establishes the provisions for the Institutional Classification Committee.

N.J.A.C. 10A:9-3.2 establishes the composition of the Institutional Classification Committee (I.C.C.). The phrase, “or designee,” has been added to paragraph (a)1, to be consistent with other provisions of subsection (a) and to provide for flexibility in the staffing of this committee.

In accordance with the Civil Service Commission’s approval of the consolidation of previously existing titles of Director of Custody Operations and Correction Captain into one new title, Correction Major, the reference to “Director of Custody Operations” has been deleted and replaced with “Correction Major” in paragraph (a)4.

Reference to the Classification representative being a non-voting member of this committee has been removed. The Classification representative, as newly defined in paragraph (a)5, shall have an equal opinion in determining an inmate’s classification. Reference in existing paragraph (a)5 to a representative from DEPTCOR on this committee has been removed to conform with current Departmental practice.

As it is no longer Departmental practice, all references to the procedure for appealing the CRAF custody status and/or correctional facility assignment have been deleted from N.J.A.C. 10A:9-3.4(c). N.J.A.C. 10A:9-3.4(e) is proposed for deletion because it is no longer appropriate.

N.J.A.C. 10A:9-3.5 establishes various rules for institutional classification and reviews of inmates. Pursuant to the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. § 15601, 28 CFR 115.42, the Department is currently operating under a Directive to ensure that transgender and intersex inmates are reassessed by medical/mental health staff and subsequently reviewed by the Institutional Classification Committee every six months. Placing this within the chapter as new N.J.A.C. 10A:9-3.5(b) assists the Department with compliance to this law.

Recodified N.J.A.C. 10A:9-3.5(g) is proposed for amendment to indicate that the Classification Department, and not the Classification Officer, sets the schedule of review for reclassification.

Various amendments are proposed to N.J.A.C. 10A:9-3.14, Required reviews, to conform with current Departmental practice and procedure and to reflect current Civil Service titles. N.J.A.C. 10A:9-3.14(c), which references specific objective classification override referrals to the Operations' Director, is proposed for deletion because all overrides are referred to the Director, as per N.J.A.C. 10A:9-2.14(c). N.J.A.C. 10A:9-3.14(a)4, 5, and 6 are proposed for deletion, as these items are no longer used in the Objective Classification process and experience has shown they have no bearing on an inmate's risk to reduced custody status. N.J.A.C. 10A:9-3.14(b)1 is proposed for amendment to reflect the Civil Service title change from Classification Officer IV to Supervising Classification Officer and paragraph (b)2 is proposed for amendment to deleted "where deemed necessary" as a temporary increase in custody is always necessary until this process has been completed.

Reference to the "Bureau of Correctional Information and Classification Services, Office of Policy and Planning," a unit that was dissolved and recreated within the Division of Operations, is proposed for deletion from N.J.A.C. 10A:9-3.15(b).

Subchapter 4 establishes the provisions for reduced custody status consideration.

N.J.A.C. 10A:9-4.3 defines the custody status used by the NJDOC. Reference to a minimum trailer unit in N.J.A.C. 10A:9-4.3(e)2 is proposed for amendment simply to "minimum security unit" since this type of unit is not limited just to trailer units. Reference in subsection (f) that inmates assigned to community-based jobs must be in community custody status is proposed for deletion since any inmate assigned to a community-based job must already be assigned to a residential community program.

N.J.A.C. 10A:9-4.4 sets forth provisions for making changes to an inmate's custody status. For the reasons set forth with respect to N.J.A.C. 10A:9-3.2(a)4, above, the reference to "Director of Custody Operations" is proposed for deletion and replaced with "Correction Major" in paragraph (a)1. Additionally, separate subsections (b) and (c), detailing how the male (CRAF) and female (EMCF) reception centers could assign inmates to full minimum custody status without the prerequisite time in gang minimum custody status by the respective classification committees, were combined into one subsection, subsection (b), since their responsibilities are identical. Specific reference to Jones Farm has also been removed since this rule applies to assignment to any full minimum security unit.

The references in N.J.A.C. 10A:9-4.6(c) and (d) to successful completion of a therapeutic community or treatment program as a condition of eligibility for a custody status lower than medium custody are proposed for deletion because they are no longer a requirement for reduced custody status consideration. Additional modifications to this section include:

- Existing subsection (h), containing the reference to when inmates serving a violation of parole under the No Early Release Act would become eligible for reduced custody status is proposed for deletion since it was determined that these inmates are not treated differently than any other group of inmates, therefore, the subsection is not needed.
- Existing subsection (i), describing how much time in custody inmates being considered for reduced custody status "prior to April 2, 1990" must serve is proposed for deletion as it was determined to be of no value. Similarly, the reference to inmate consideration for reduced custody status "on or after April 2, 1990," is proposed for deletion from existing subsection (j) as it is no longer relevant.
- The examples in existing subsections (i), (j), and (k), showing when inmates would become eligible for reduced custody are proposed for deletion, as they were determined to be redundant.
- The table and instructions at existing subsections (l) and (m), detailing how much time an inmate serving an indeterminate term must serve before being eligible for reduced custody, are proposed for deletion due to the Court's non-use of indeterminate sentencing.
- At recodified subsections (i), (j), (k), and (l), the sections detailing which detainees and open

charges are permissible or non-permissible are proposed to be merged. Previously, there were separate subsections for detainers and open charges from out-of-State/Federal agencies and those from within New Jersey. Because the offenses were the same, combining the subsections allows for clearer instructions. One new open charge, racketeering, is proposed to be added to the list of non-permissible open charges in recodified subsection (i), regardless of date.

- The list of non-permissible detainers at recodified subsection (l) is proposed for amendment to include all 1st and 2nd degree offenses. This will eliminate the need to adjust this section in the event of a new criminal offense becoming law. This amendment includes deleting specific references to certain 1st and 2nd degree crimes, previously codified at subsections (s), (t), and (u), such as manufacturing, distribution, or dispensing CDS, burglary, prohibited weapons and devices, robbery, maintaining/operating a CDS facility, and carjacking.
- A new criteria was created, at subsection (m), to clarify that municipal open charges and detainers are considered permissible. This has historically been the standard practice of the NJDOC.

N.J.A.C. 10A:9-4.7 and 4.8 provide provisions for eligibility limitations of reduced custody status. At N.J.A.C. 10A:9-4.7(c)1, Murder in which the underlying crime is sexual assault, is proposed to be added to the list of sexual offenses that preclude reduced custody. N.J.A.C. 10A:9-4.7(d) is proposed for amendment, without modifying the rule, to simplify the regulation with respect to reduced custody for offenders with arson conviction(s). Additionally, N.J.A.C. 10A:9-4.7(e) and 4.8(d) are proposed for amendment to state that an inmate's current or prior conviction for an arson offense(s), and not an offense involving fire-setting, or malicious destruction involving arson, will impact an inmate's ability to obtain reduced custody status.

N.J.A.C. 10A:9-4.9 provides provisions for assignments to minimum units. The heading of this section regarding assignment of inmates to satellite units, except Jones Farm and Rahway Camp, is proposed for amendment as follows: "satellite" units is replaced with "minimum" units to be more inclusive, and the exception of Jones Farm and Rahway Camp is removed, since the criteria listed is applicable to any minimum unit, including Jones Farm and Rahway Camp. The reference to Assistant Commissioner in subsection (c) is proposed for deletion to reflect current Departmental practice and procedure.

Subchapter 5 establishes the guidelines for loss and restoration of commutation credits, as well as how work and minimum custody credit are awarded. An additional cross-reference to N.J.A.C. 10A:9-5.4 is proposed at N.J.A.C. 10A:9-5.1, to further specify how commutation credits can be forfeited.

N.J.A.C. 10A:9-5.3 sets forth the provisions for how commutation and work credits can be forfeited. New subsections (c), (d), and (e) are proposed to codify previously existing laws that address how certain sex offenders can lose credit for not participating in sex offender treatment.

N.J.A.C. 10A:9-5.5 sets forth how forfeited commutation credits may be restored. Proposed new subsection (b) specifies that commutation credits forfeited for failure to participate in sex offender treatment are not eligible for restoration. The following additional amendments are proposed to this section:

- Instructions in recodified paragraph (d)1, pertaining to restoring commutation credits, are modified to make them easier to understand and to accurately reflect the current procedures, by deleting the subparagraphs and the example. Specific examples of restoration are removed as they are deemed to be redundant.
- Specific instruction in recodified subsection (f) is added to clarify that an inmate may request restoration at any point during his or her incarceration. Additionally, because there is no discretion in approving eligible restoration, the reference "make the restoration determination" is changed to "approve the restoration." Specific examples of restoration are removed as they are deemed to be redundant.
- Since the Office of Interstate Services has not had a "Chief" position since the 1990's, the generic term "supervisor" has been substituted at recodified subsection (h).

N.J.A.C. 10A:9-5.6 sets forth the criteria for awarding county jail work credit to State inmates awaiting transfer into NJDOC custody. Subsection (f), describing how county jail work credits would be awarded to inmates transferred to the county jail prior to being paroled, is proposed for deletion, as the practice of contracting with county jails to house NJDOC inmates was discontinued many years ago.

Subchapter 6 establishes the provisions for the Institutional Classification Reception Committee (I.C.R.C.)

N.J.A.C. 10A:9-6.1(a)3 is proposed for deletion because the I.C.R.C. does not recommend inmates for Protective Custody. There is a separate committee tasked with this undertaking.

Reference to the Division of Programs and Community Services in N.J.A.C. 10A:9-6.2(c) is proposed for replacement with the Office of Substance Abuse Programming and Addiction Services to more accurately reflect the committee representation. This Office is now under the Division of Operations.

N.J.A.C. 10A:9-6.3(a)4 is proposed for amendment to reflect current usage and to make clear that the inmate's institutional history is not limited to any one particular correctional facility.

Subchapter 7 establishes the guidelines for inter-institutional transfers.

At N.J.A.C. 10A:9-7.1(b), reference to the Assistant Commissioner of the Division of Operations is proposed for deletion, since the definition of "designee" includes this title.

N.J.A.C. 10A:9-7.2 is proposed for amendment to correct the heading to "Procedure for reviewing nonemergency transfer 'requests'" instead of "funds." Existing subsections (b), (f), (g), and (h) are proposed for deletion to conform to current Departmental practice, which has been streamlined since the last amendment to this section.

Reference to the I.C.C. in N.J.A.C. 10A:9-7.3(e)3 is proposed for deletion because this information is being provided to the Administrator, who will then forward to the I.C.C. Existing subsection (f) is proposed for deletion, since this is not the practice during an emergency transfer.

N.J.A.C. 10A:9-7.5 is proposed to be reworded, without modifying the rule, to simplify the section.

Subchapter 8 establishes the provisions for a Special Classification Review Board (S.C.R.B.).

Since 1999, all non-State employee members of the S.C.R.B. have been compensated for work performed in compliance with Board duties. Given the specialization of the non-State employees, as well as the duties performed, payment is justified and is proposed to be codified at N.J.A.C. 10A:9-8.2(f). If non-State employee members are not compensated, it is unlikely that, given the duties and required expertise, the NJDOC will be able to secure qualified candidates to serve on the S.C.R.B., which will likely impact the ability of this class of inmates at the Adult Diagnostic and Treatment Center (A.D.T.C.) to secure parole.

N.J.A.C. 10A:9-8.2(e) is proposed for amendment to reflect that the S.C.R.B. currently meets once per calendar year quarter, instead of once per month.

Subchapter 9 establishes the provisions of the Community Corrections Classification Committee (C-4).

Reference to the Electronic Monitoring Program is proposed for deletion from N.J.A.C. 10A:9-9.1 and 9.3(a) because this program is not reviewed by this committee.

N.J.A.C. 10A:9-9.2 is proposed for amendment to specify the titles of the participants and the current programs or division represented, that is, an administrator is now specified as the Assistant Superintendent of the Division of Programs and Community Services (or designee) in paragraph (a)1 and optional representatives from the Division of Operations and the Office of Substance Abuse Programming and Addiction Services (formerly known as the Office of Drug Programs) has been identified in paragraph (a)5. Paragraph (a)4 is proposed for deletion as it was too general to be meaningful and did not accurately reflect actual C-4 members. The amendments result in a C-4 with four members of which two are optional, or as needed, as

defined in paragraphs (a)3 and 5. Subchapter 10 establishes the provisions for the Residential Community Program Notification Committee.

N.J.A.C. 10A:9-10.2 describes the composition of this committee and is proposed for amendment to more accurately reflect its membership. The representative designated in paragraph (b)3 has been deleted as Internal Support and Outreach Services is not represented on the Committee. Additionally, the Office of Drug Programs is now referred to as the Office of Substance Abuse Programming and Addiction Services. Lastly, the Office of Victim Services is now formally included in this committee, providing additional information to the decision-making process.

As the Department of Corrections has determined that the comment period for this notice of proposal shall be 60 days, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed readoption of N.J.A.C. 10A:9 with amendments provides an orderly process for determining the degree of custody and appropriate correctional facility assignment for each inmate; for determining eligibility for reduced custody status; and for the awarding and the forfeiture of commutation time and work credits. The rules proposed for readoption will continue to assist administrative staff in the management of inmate populations so that the security and orderly operation of correctional facilities can be maintained.

The findings of the Revalidation Study indicate that certain criteria assessed and/or points applied during classification scoring should be revised, or eliminated from the objective classification assessment process to help ensure that objective classification scores continue to achieve the goal of being predictive of successful placement in reduced custody status. The amendments proposed throughout N.J.A.C. 10A:9-2 represent revisions to various assessment and scoring components of the objective classification scoring instruments in accordance with Revalidation Study findings. However, the Department shall continue to ensure that all inmates are classified to the custody status commensurate with their risk to the community, and that the objective classification system effectively addresses the safety and security issues inherent in the classification of inmates by overriding the recommended custody status when deemed appropriate. The Department anticipates that, due to the revalidated classification scoring instruments, the need to override the lower custody status indicated by the objective classification score will decrease, and the percentage of inmates in each of the six custody status levels will remain unchanged. The proposed amendments will help the Department to eliminate the potential for over-classification by objective classification scoring, and help to meet the therapeutic and rehabilitative needs of inmates, while ensuring the safe, secure, and orderly operation of correctional facilities.

As such, the rules proposed for readoption with amendments are expected to have an overall positive social impact.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments is met by the Department through the established budget with funds allocated by the State.

Federal Standards Statement

The rules proposed for readoption with amendments are promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10, and the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. § 1560. The rules proposed for readoption with amendments do not exceed any Federal statutes, requirements, or standards and conform with the rules of PREA, therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments will cause neither the generation nor the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments shall have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments shall have no impact on housing affordability or on the average costs associated with housing. The rules proposed for readoption with amendments concerning the classification process affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments shall have no impact on smart growth development because the rules proposed for readoption with amendments will not 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. The rules proposed for readoption with amendments concerning the classification process affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:9.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10A:9-1.3 Definitions

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

...

“Custody status” means the custody assignment of an inmate. There are six categories: close custody, maximum custody, medium custody, gang minimum custody, full minimum custody, and community custody.

“Detainer” means a warrant or formal authorization to hold an inmate for prosecution or detention by a Federal, State, or local law enforcement agency or the Department of Homeland Security-Office of Immigration and Customs Enforcement (ICE).

...

“Mandatory minimum term” means a period of parole ineligibility imposed by the court in addition to the maximum term.

...

“Non-permissible” means a detainer/open charge that precludes an inmate from being eligible for minimum custody as defined in N.J.A.C. 10A:9-4.6.

“Objective classification” means the system that allows for an inmate to be scored using standardized evaluations and objectively-defined criteria in order to determine an inmate's custody level.

...

“Permissible” means a detainer/open charge that does not preclude an inmate from being eligible for minimum custody as defined in N.J.A.C. 10A:9-4.6.

“Pre-Sentence Investigation Report” (PSI) means a report that contains the official version of the offense, statements by the victim and defendant, the defendant's prior criminal history, and other information such as prior work and education history.

“Prison Rape Elimination Act” (PREA) means the Federal Prison Rape Elimination Act of 2003. This act was established to provide for the analysis of the incidence and effects of prison rape in Federal, state, and local institutions and provide information, resources, and recommendations and funding to protect individuals from prison rape, sexual abuse, and sexual harassment. The major provisions of PREA include adherence to a zero-tolerance standard for the incidence of inmate sexual assault and rape, the development of standards for the detection, prevention, reduction, and punishment of prison rape, and the collection and dissemination of information on the incidence of prison rape.

...

“Reduced custody status” means an assignment of an inmate to a **minimum** custody level [that requires less supervision], **such as gang minimum, full minimum or community.**

“Security level” means [the numerical rating which represents] the physical attributes of a correctional facility or housing unit in primarily objective terms related to perimeter security, operating procedures, and internal housing configurations to identify the highest custody level of inmates allowed.

...

10A:9-1.4 Forms

(a) (No change.)

(b) The following forms related to the classification of inmates shall be reproduced by each correctional facility from the originals, which are available by contacting the Office of Classification [Monitoring and Support] Services [(O.C.M.S.S.)], Division of Operations.

1. – 3. (No change.)

SUBCHAPTER 2. OBJECTIVE CLASSIFICATION PROCESS

10A:9-2.1 Initial classification

(a) – (e) (No change.)

(f) At the end of the initial classification process, a male inmate admitted to the CRAF shall appear before the Institutional Classification Reception Committee (I.C.R.C.) where the inmate's **recommended** custody status and correctional facility/unit assignment shall be decided.

(g) – (i) (No change.)

10A:9-2.3 Administration of objective classification scoring instruments

(a) The Initial Instrument shall be administered to:

1. – 2. (No change.)

3. Inmates with changes in sentencing or official record information (**see N.J.A.C. 10A:9-3.5**);

4. – 5. (No change.)

(b) The Reclassification Instrument shall be administered to:

1.- 3. (No change.)

4. Inmates with changes in sentencing or official record information (see **N.J.A.C. 10A:9-3.5**);
5. Inmates upon a finding of guilt to a prohibited act pursuant to N.J.A.C. 10A:9-3.14, Required reviews; [and]

6. Inmates released from Administrative Segregation; and

[6.] **7.** (No change in text.)

(c) – (d) (No change.)

10A:9-2.4 Objective criteria for the Initial Instrument for Male Inmates

(a) Upon review of the inmate's classification file, each of the criteria established in (c) below shall be assessed by a Technical Assistant or above, and assigned points in accordance with the assessment scales indicated. The total points shall determine the custody status score on the Initial Instrument for Male Inmates as follows, except as established in (b) below:

1. An [inmate/parole violator] **inmate's** custody status score of 12 points or more shall indicate a recommendation for placement into maximum custody status;

2. An [inmate/parole violator] **inmate's** custody status score of five to 11 points shall indicate a recommendation for placement into medium custody status; or

3. An [inmate/parole violator] **inmate's** custody status score of four points or less shall indicate a recommendation for placement into minimum custody status.

(b) A total of 10 or more points resulting from a review of the inmate's classification file on the criteria set forth in (c)1 through 4 **below** shall result in a recommendation for placement into maximum custody status (see N.J.A.C. 10A:9-4.3, Custody [levels] **status**).

(c) The objective criteria for the Initial Instrument for Male Inmates are as follows:

1. Severity of offense based on the most serious offense in the present commitment (see the Severity of Offense Scale at N.J.A.C. 10A:9-[2.6]**2.8**)[:], **which is assigned a point value as follows:**

- i. **Highest level seven points;**

- ii. **High level five points;**

- iii. **Moderate level three points;**

- iv. **Low moderate level one point; or**

- v. **Low level zero points;**

2. Prior assaultive offense history based on the most serious assaultive offense in the last 10 years of criminal history (see the Severity of Offense Scale at N.J.A.C. 10A:9-2.8)[:], **which is assigned a point value as follows:**

- i. **Highest level seven points;**

- ii. **High level five points;**

- iii. **Moderate level three points;**

- iv. **Low or Low moderate level one point; or**

- v. **None zero points;**

3. Escape history during the previous five years of incarceration from the date of review regardless of the age or legal status of the inmate (see the Escape History Scale **for Male Inmates** at N.J.A.C. 10A:9-2.9);

4. History of institutional violence based on institutional disciplinary reports **and/or criminal convictions** for [any offense involving a weapon or] any of the following offenses during the previous five years of incarceration from the date of review (see the Institutional Violence Scale **for Male Inmates** at N.J.A.C. 10A:9-2.11):

- i. – xiv. (No change.)

5. Prior felony convictions. The following Prior Felony Convictions Scale shall be used to assess an inmate's prior felony convictions **within the last 10 years** and to assign points on the Initial Instrument for Male Inmates:

- i. – iii. (No change.)

6. (No change.)

10A:9-2.5 Objective criteria for the Initial Instrument for Female Inmates

(a) Upon review of the inmate's classification file, each of the criteria established in (c) below shall be assessed by a Technical Assistant or above, and assigned points in accordance with the assessment scales indicated. The total points shall determine the custody level score on the Initial Instrument for Female Inmates as follows, except as established in (b) below:

1. An [inmate/parole violator] **inmate's** custody status score of 15 points or more shall indicate a recommendation for placement into maximum custody status;

2. An [inmate/parole violator] **inmate's** custody status score of seven to 14 points shall indicate a recommendation for placement into medium-custody status; or

3. An [inmate/parole violator custody] **inmate's** status score of six points or less shall indicate a recommendation for placement into minimum custody status.

(b) A total of 10 or more points resulting from a review of the inmate's classification file on the criteria set forth in (c)1 through 4 below shall result in a recommendation for placement into maximum custody status (see N.J.A.C. 10A:9-4.3, Custody [levels] **status**).

(c) The objective criteria for the Initial Instrument for Female Inmates are as follows:

1. Severity of offense based on the most serious offense in the present commitment (see the Severity of Offense Scale at N.J.A.C. 10A:9-2.8)[;], **which is assigned a point value as follows:**

- i. **Highest level seven points;**
- ii. **High level five points;**
- iii. **Moderate level three points;**
- iv. **Low moderate level one point; or**
- v. **Low level zero points;**

2. Prior assaultive offense history based on the most serious assaultive offense in the last 10 years of criminal history (see the Severity of Offense Scale at N.J.A.C. 10A:9-2.8)[;], **which is assigned a point value as follows:**

- i. **Highest level seven points;**
- ii. **High level five points;**
- iii. **Moderate level three points;**
- iv. **Low or low moderate level one point; or**
- v. **None zero points;**

3. Escape history during the previous five years of incarceration from the date of review regardless of the age or legal status of the inmate (see the Escape History Scale **for Female Inmates** at N.J.A.C. 10A:9-2.10);

4. History of institutional violence based on institutional disciplinary reports **and/or criminal convictions** for [any offense involving a weapon or] any of the following offenses during the previous five years of incarceration from the date of review (see the Institutional Violence Scale **for Female Inmates** at N.J.A.C. 10A:9-2.12):

- i. – xiv. (No change.)

5. Prior felony convictions. The following Prior Felony Convictions Scale shall be used to assess an inmate's prior felony convictions **within the last 10 years** and to assign points on the Initial Instrument for Female Inmates:

- i. – iii. (No change.)

6. (No change.)

10A:9-2.6 Objective criteria for the Reclassification Instrument for Male Inmates

(a) Upon review of the inmate's classification file, each of the criteria established in (b) below shall be assessed by a Technical Assistant or above, and assigned points in accordance with the assessment scales indicated. The total points shall determine the custody status score on the Reclassification Instrument for Male Inmates as follows (see N.J.A.C. 10A:9-4.3, Custody status):

1. An [inmate/parole violator] **inmate's** score of 12 points or more shall indicate a recommendation for placement into maximum custody status;

2. An [inmate/parole violator] **inmate's** score of five to 11 points shall indicate a

recommendation for placement into medium custody status; or

3. An [inmate/parole violator] **inmate's** score of four points or less shall indicate a recommendation for placement into minimum custody status.

(b) The objective criteria for the Reclassification Instrument for Male Inmates are as follows:

1. Severity of offense based on the most serious offense in the present commitment (see the Severity of Offense Scale at N.J.A.C. 10A:9-[2.6]**2.8**);, **which is assigned a point value as follows:**

- i. **Highest level six points;**
- ii. **High level four points;**
- iii. **Moderate level three points; or**
- iv. **Low or low moderate level zero points;**

2. Prior assaultive offense history based on the most serious assaultive offense in the last 10 years of criminal history (see the Severity of Offense Scale at N.J.A.C. 10A:9-2.8);, **which is assigned a point value as follows:**

- i. **Highest level six points;**
- ii. **High level four points;**
- iii. **Moderate level two points;**
- iv. **Low or low moderate level one point; or**
- v. **None zero points;**

3. History of institutional violence based on institutional disciplinary reports **and/or criminal convictions** for [any offense involving a weapon or] any of the following offenses during the previous five years of incarceration from the date of review (see the Institutional Violence Scale **for Males Inmates** at N.J.A.C. 10A:9-2.11):

- i. – xiv. (No change.)

4. Escape history during the previous five years of incarceration from the date of review regardless of the age or legal status of the inmate (see the Escape History Scale **for Males Inmates** at N.J.A.C. 10A:9-2.9);

5. Number of disciplinary reports within the previous 18 months of incarceration prior to review, to include previous incarcerations. The following Number of Disciplinary Reports Scale shall be used to assess an inmate's disciplinary report history and to assign points on the Reclassification Instrument for Male Inmates:

- i. Inmates with zero disciplinary reports in the last 18 months **of incarceration** shall receive minus two points;
- ii. Inmates with zero disciplinary reports in the last 12 months **of incarceration** shall receive minus one point;
- iii. Inmates with zero disciplinary reports in the last six months **of incarceration** shall receive zero points;
- iv. Inmates with one disciplinary report in the last six months **of incarceration** shall receive two points; or
- v. Inmates with two or more disciplinary reports in the last six months **of incarceration** shall receive four points;

6. Most severe disciplinary infraction received in the previous 12 months of incarceration (see the Severity of Offense -- Disciplinary Infractions Scales at N.J.A.C. 10A:9-[2.11]**2.13**);

7. (No change.)

8. Program participation in correctional facility programs during the current admission. The following Program Participation Scale shall be used to assess an inmate's correctional facility program participation and to assign points on the Reclassification Instrument for Male Inmates:

- i. Inmates with no program participation shall receive zero points; **or**
- ii. Inmates who are currently participating in or have completed a program within the past 12 months [shall receive minus two points;] or [iii. Inmates] **inmates** currently on a program waiting list shall receive minus [one] **two** points.

10A:9-2.7 Objective criteria for the Reclassification Instrument for Female Inmates

(a) Upon review of the inmate's classification file, each of the criteria established in (b) below shall be assessed by a Technical Assistant or above, and assigned points in accordance with the assessment scales indicated. The total points shall determine the custody status score on the Reclassification Instrument for Female Inmates as follows (see N.J.A.C. 10A:9-4.3, Custody status):

1. An [inmate/parole violator] **inmate's** score of 15 points or more shall indicate a recommendation for placement into maximum custody status;

2. An [inmate/parole violator] **inmate's** score of seven to 14 points shall indicate a recommendation for placement into medium custody status;

3. An [inmate/parole violator] **inmate's** score of six points or less shall indicate a recommendation for placement into minimum custody status.

(b) The objective criteria for the Reclassification Instrument for Female Inmates are as follows:

1. Severity of offense based on the most serious offense in the present commitment (see the Severity of Offense Scale at N.J.A.C. 10A:9-2.8)[;], **which is assigned a point value as follows:**

i. **Highest level six points;**

ii. **High level four points;**

iii. **Moderate level three points; or**

iv. **Low or low moderate level zero points;**

2. Prior assaultive offense history based on the most serious assaultive offense in the last 10 years of criminal history (see the Severity of Offense Scale at N.J.A.C. 10A:9-2.8)[;], **which is assigned a point value as follows:**

i. **Highest level six points;**

ii. **High level four points;**

iii. **Moderate level two points;**

iv. **Low or low moderate level one point; or**

v. **None zero points;**

3. History of institutional violence based on institutional disciplinary reports **and/or criminal convictions** for [any offense involving a weapon or] any of the following offenses during the previous five years of incarceration from the date of review (see the Institutional Violence Scale **for Female Inmates** at N.J.A.C. 10A:9-2.12):

i. – xii. (No change.)

4. Escape history during the previous five years of incarceration from the date of review regardless of the age or legal status of the inmate (see the Escape History Scale **for Female Inmates** at N.J.A.C. 10A:9-2.10);

5. Number of disciplinary reports within the previous 18 months of incarceration prior to review, to include previous incarcerations. The following Number of Disciplinary Reports Scale shall be used to assess an inmate's disciplinary report history and to assign points on the Reclassification Instrument for Female Inmates:

i. Inmates with zero disciplinary reports in the last 18 months **of incarceration** shall receive minus two points;

ii. Inmates with zero disciplinary reports in the last 12 months **of incarceration** shall receive minus one point;

iii. Inmates with zero disciplinary reports in the last six months **of incarceration** shall receive zero points;

iv. Inmates with one disciplinary report in the last six months **of incarceration** shall receive one point; or

v. Inmates with two or more disciplinary reports in the last six months **of incarceration** shall receive two points;

6. Most severe disciplinary infraction received in the previous 12 months **of incarceration** (see the Severity of Offense--Disciplinary Infractions Scale at N.J.A.C. 10A:9-2.13);

7. (No change.)

8. Program participation in correctional facility programs during the current admission. The following Program Participation Scale shall be used to assess an inmate's correctional facility program participation and to assign points on the Reclassification Instrument for Female Inmates.

- i. Inmates with no program participation shall receive zero points; **or**
- ii. Inmates who are currently participating in or have completed a program within the past 12 months [shall receive minus two points;] or
- [iii. Inmates] **inmates** currently on a program waiting list shall receive minus [one] **two** points.

10A:9-2.8 Severity of Offense Scale

(a) The Severity of Offense Scale shall be used to assess the seriousness of an inmate's current offenses and an inmate's prior assaultive offense history. The Severity of Offense Scale has the following levels [:

1. Highest;
2. High;
3. Moderate;
4. Low moderate; and
5. Low.]

based on the degree of the sentence imposed. See N.J.A.C. 10A:9-2.4(c) (for males) and 2.5(c) (for females) for point values of the Initial Instruments and N.J.A.C. 10A:9-2.6(b) (for males) and 2.7(b) (for females) for point values of the Reclassification Instruments.

(b) The following offenses appear at the highest level of the Severity of Offense Scale[. Inmates with a conviction for any of the below listed offenses shall receive six points on the Initial and Reclassification Instruments]:

1. N.J.S.A. 2C:11-1 et seq. Criminal Homicide--all 1st degree offenses, **including N.J.S.A. 2C:11-5, Death by Auto-1st degree;**

2. – 10. (No change.)

(c) The following offenses appear at the high level of the Severity of Offense Scale[. Inmates with a conviction for any of the below listed offenses shall receive four points on the Initial and Reclassification Instruments]:

1. – 11. (No change.)

12. N.J.S.A. 2C:35-1 et seq. Controlled Dangerous Substances--all 1st degree offenses (except N.J.S.A. 2C:35-3 Leader of Narcotics Trafficking Network--1st degree and N.J.S.A. 2C:35-4 Maintaining or Operating a Controlled Dangerous Substance Production Facility--1st degree which are considered to be at the highest level); [or]

13. N.J.S.A. 2C:39-1 et seq. Firearms, Other Dangerous Weapons and Instruments of Crime – all 1st degree offenses; or

[13.] **14.** (No change in text.)

(d) The following offenses appear at the moderate level of the Severity of Offense Scale[. Inmates with a conviction of any of the below listed offenses shall receive two points on the Initial and Reclassification Instruments]:

1.- 15. (No change.)

(e) The following offenses appear at the low moderate level of Severity of Offense Scale[. Inmates with a conviction of any of the below listed offenses shall receive one point on the Initial Instrument and zero points on the Reclassification Instrument]:

1. (No change.)

2. N.J.S.A. 2C:7-2(a) Failure to Register as a Sex Offender—**3rd and 4th** degree;

3. - 23. (No change.)

(f) The following offenses appear at the low level of the Severity of Offense Scale[. Inmates with a conviction for any of the below listed offenses shall receive zero points on the Initial and Reclassification Instruments]:

1. – 16. (No change.)

10A:9-2.9 Escape History Scale for Male Inmates

(a) The following Escape History Scale for Male Inmates shall be used to assess an inmate's escape history and assign points on the Initial and Reclassification Instruments for Male Inmates:

1. Inmates with zero escapes **within the last five years of incarceration** shall receive zero points;
2. Inmates with an escape or attempted escape from minimum or community custody with no actual or threatened violence **shall receive:**
 - [i. Over one year ago shall receive one point; or
 - ii. Within the last year shall receive three points; or]
 - i. One point if the inmate has been back in custody more than one year since the incident; or**
 - ii. Three points if the inmate has been back in custody one year or less since the incident; or**
3. Inmates with an escape or attempted escape from medium custody or above, or an escape from minimum or community custody with actual or threatened violence, **shall receive:**
 - [i. Over one year ago shall receive five points; or
 - ii. Within the last year shall receive seven points.]
 - i. Five points if the inmate has been back in custody more than one year since the incident; or**
 - ii. Seven points if the inmate has been back in custody one year or less since the incident.**

10A:9-2.10 Escape History Scale for Female Inmates

(a) The following Escape History Scale for Female Inmates shall be used to assess an inmate's escape history and assign points on the Initial and Reclassification Instruments for Female Inmates:

1. Inmates with zero escapes **within the last five years of incarceration** shall receive zero points;
2. Inmates with an escape or attempted escape from minimum or community custody with no actual or threatened violence **shall receive:**
 - [i. Over one year ago shall receive one point; or
 - ii. Within the last year shall receive three points; or]
 - i. One point if the inmate has been back in custody more than one year since the incident; or**
 - ii. Three points if the inmate has been back in custody one year or less since the incident; or**
3. Inmates with an escape or attempted escape from medium custody or above, or an escape from minimum or community custody with actual or threatened violence **shall receive:**
 - [i. Over one year ago shall receive four points; or
 - ii. Within the last year shall receive six points.]
 - i. Four points if the inmate has been back in custody more than one year since the incident; or**
 - ii. Six points if the inmate has been back in custody one year or less since the incident.**

10A:9-2.11 Institutional Violence Scale for Male Inmates

(a) The following Institutional Violence Scale shall be used to assess an inmate's institutional violence history and to assign points on the Initial and Reclassification Instruments for Male Inmates:

1. Inmates with [zero] **no** institutional disciplinary reports **involving violence** shall receive zero points; **or**
2. Inmates with an institutional disciplinary report including violence [not involving use of a

weapon or not resulting in serious injury] shall receive five points[; or].

[3. Inmates with an institutional disciplinary report including violence involving use of a weapon and/or resulting in serious injury shall receive seven points.]

10A:9-2.12 Institutional Violence Scale for Female Inmates

(a) The following Institutional Violence Scale for Female Inmates shall be used to assess an inmate's institutional violence history and to assign points on the Initial and Reclassification Instruments for Female Inmates:

1. Inmates with [zero] **no** institutional disciplinary reports **involving violence** shall receive zero points; **or**

2. Inmates with an institutional disciplinary report including violence [not involving use of a weapon or not resulting in serious injury] shall receive three points[; or].

[3. Inmates with an institutional disciplinary report including violence involving use of a weapon and/or resulting in serious injury shall receive five points.]

10A:9-2.13 Severity of Offense--Disciplinary Infractions Scale

(a) The Severity of Offense -- Disciplinary Infractions Scale shall be used to assess an inmate's most serious disciplinary infraction received in the previous 12 months of incarceration. The Severity of Offense--Disciplinary Infraction Scale has the following levels **and point values**:

1. Highest: **seven points**;

2. High: **five points**;

3. Moderate: **three points**;

4. Low moderate: **two points**; [and]

5. Low[.]: **one point**; and

6. None: zero points.

(b) The following prohibited acts appear at the highest level of the Severity of Offense--Disciplinary Infractions Scale. [Inmates found guilty of any of the below listed disciplinary infractions shall receive seven points on the Reclassification Instrument.]

1. – 14. (No change.)

(c) The following prohibited acts appear at the high level of the Severity of Offense--Disciplinary Infractions Scale. [Inmates found guilty of any of the below listed disciplinary infractions shall receive five points on the Reclassification Instrument.]

1. – 23. (No change.)

(d) The following prohibited acts appear at the moderate level of the Severity of Offense--Disciplinary Infractions Scale. [Inmates found guilty of any of the below listed disciplinary infractions shall receive three points on the Reclassification Instrument.]

1. – 47. (No change.)

(e) The following prohibited acts appear at the low moderate level of the Severity of Offense--Disciplinary Infractions Scale. [Inmates found guilty of any of the below listed disciplinary infractions shall receive two points on the Reclassification Instrument.]

1. – 11. (No change.)

(f) The following prohibited act appears at the low level of the Severity of Offense--Disciplinary Infractions Scale. [Inmates found guilty of the below listed disciplinary infraction shall receive one point on the Reclassification Instrument.]

1. (No change.)

10A:9-2.14 Override Code Reference Index

(a) In accordance with the description of the override code, when an inmate cannot be assigned to the recommended custody status indicated by the custody status score on the Initial or Reclassification Instruments, the appropriate override code shall be applied and any specific information concerning the reason for the override shall be documented and maintained in the inmate record. When an override is invoked, Form OC-001 Request for Override Approval must be completed and forwarded to the Division of Operations for final approval:

1. Code A: Medium custody status assignment or above due to mandatory minimum[, No Early Release Act (NERA) parole violation,] or length of term requirements pursuant to N.J.A.C. 10A:9-4.6;

2. (No change.)

3. Code C: Permanent custody prohibition/bar. Medium custody status assignment or above only due to escape history pursuant to N.J.A.C. 10A:9-4.7(f);

4. Code D: Medium custody status assignment or above due to escape history pursuant to N.J.A.C. 10A:9-4.6(s)(o);

5. (No change.)

6. Code E-2: [Permanent custody prohibition/bar.] Gang minimum custody status assignment [or above] only due to sexual or arson offense convictions pursuant to N.J.A.C. 10A:9-4.8;

7. Code F: Medium custody status assignment of above pending U.S. Immigration and Customs Enforcement (ICE) response indicating interest pursuant to N.J.A.C. 10A:9-4.6(n);

8. Code G[-1]: Medium custody status assignment or above due to keep separate status pursuant to N.J.A.C. 10A:9-4.5;

[9. Code G-2: Medium custody status assignment or above due to unfavorable psychological/psychiatric reports pursuant to N.J.A.C. 10A:9-3.3 or 4.5;]

[10.] **9.** (No change in text.)

[11.] **10.** Code I[-1]: Medium custody status assignment or above due to specialized [substance use disorder screening or] **medical or psychological/psychiatric** treatment pursuant to N.J.A.C. 10A:9-4.6;

[12. Code I-2: Medium custody status assignment or above due to specialized medical treatment pursuant to N.J.A.C. 10A:9-4.5;

13. Code I-3: Medium custody status assignment or above due to specialized psychological/psychiatric treatment pursuant to N.J.A.C. 10A:9-4.5;]

Recodify existing 14. and 15. as **11. and 12.** (No change in text.)

[16.] **13.** Reduced custody status due to reasonable belief of the classification committee that the inmate would be successful in a lower than recommended custody status assignment at this time due to:

i.- iii. (No change.)

iv. Code L-4: Any reason relating to the best interests of the inmate pursuant to N.J.A.C. 10A:9-3.3 and 4.5; **or**

[v. Code L-5: Any reason relating to the safe, orderly operation of the Department of Corrections facility pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vi. Code L-6: Prior criminal record pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

vii. Code L-7: Previous incarcerations pursuant to N.J.A.C. 10A:9-3.3 and 4.5;

viii. Code L-8: Reports from professional and custody staff pursuant to N.J.A.C. 10A:9-3.3 and 4.5; or]

[17.] **14.** (No change in text.)

(b) – (c) (No change.)

(d) Inmates with permanent override codes C and E1 do not need to be re-scored as they can never obtain reduced custody status. An inmate with an E2 override does not necessitate a re-score unless required by N.J.A.C. 10A:9-3.14. However, all inmates must be reviewed annually.

SUBCHAPTER 3. INSTITUTIONAL CLASSIFICATION COMMITTEE (I.C.C.)

10A:9-3.2 Composition of the Institutional Classification Committee (I.C.C.)

(a) The members of the Institutional Classification Committee (I.C.C.) at each of the correctional facilities shall be composed of the:

1. Administrator, Associate Administrator, [or] Assistant Superintendent, **or designee**;

2. – 3. (No change.)

4. [Director of Custody Operations] **Correction Major** or custody supervisor designee;
and
[5. Supervisor of State Use Industries (DEPTCOR) or designee, where applicable; and
6. Classification Officer or designee (non-voting member).]

5. Supervising Classification Officer or Classification designee of the title of Technical Assistant or above, excluding the Classification Officer Apprentice title.

(b) – (c) (No change.)

10A:9-3.4 Institutional classification

(a) – (b) (No change.)

[(c) The Institutional Classification Committee (I.C.C.) or Administrator of the receiving correctional facility may appeal a Central Reception Assignment Facility (CRAF) custody status assignment and/or correctional facility/unit assignment when, in the opinion of the I.C.C. or Administrator, the CRAF assignment is not appropriate.

1. Appeals shall include Form CRAF-001, a copy of the scored objective classification instrument, and any supporting material;

2. Appeals shall be faxed to the CRAF within two business days of the I.C.C. review;

3. Appeals initiated after two business days shall be submitted to the Director, Division of Operations;

4. Appeals shall be forwarded by the CRAF to the Director, Division of Operations for review;

5. The receiving correctional facility has the authority to keep the inmate at a higher custody status until the appeal process has been completed; and

6. Results of an appeal shall be available to the receiving correctional facility Administrator no later than one week following receipt of the appeal by the Director, Division of Operations.]

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

[(e) An inmate may be referred by the I.C.C. to a subcommittee or department head for consideration for individual components of a program.]

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

10A:9-3.5 Review dates

(a) (No change.)

(b) Placement and programming assignments for each transgender or intersex inmate shall be scheduled for review every six months. Updated medical/mental health assessments shall be completed prior to this meeting.

Recodify existing (b)-(e) as **(c)-(f)** (No change in text.)

[(f)] **(g)** The Classification [Officer] **Department** shall be responsible for scheduling all reviews set by the I.C.C.

Recodify existing (g) and (h) as **(h) and (i)** (No change in text.)

10A:9-3.14 Required reviews

(a) Inmate records shall be rescored on the objective classification scoring instrument used at the last review when there is a change in sentencing or official record information that affects one or more of the following criteria assessed on an objective classification scoring instrument:

1. – 3. (No change.)

[4. Balance of term to be served to expiration of sentence--Initial Instrument only;

5. Alcohol/drug use history--Initial Instrument only;

6. Current detainer/open charges;]

[7.] **4.** Prior felony convictions; **or**

[8.] **5.** Stability factors--Initial Instrument only[; or].

[9. Balance of term to parole eligibility date--Reclassification Instrument only.]

(b) When a non-permissible detainer/open charge is received on an inmate assigned to reduced

custody status:

1. The Administrator shall be notified by the **Supervising** Classification Officer [IV] or designee;
2. A temporary increase in custody status shall be placed on the inmate [where deemed necessary]; and
3. (No change.)

[(c) If an override is required on an objective classification scoring instrument that has been rescored due to a change in inmate sentencing or official record information, or the receipt or return of a non-permissible detainer/open charge, the inmate shall be referred to the Director, Division of Operations for review.]

Recodify existing (d) and (e) as (c) **and** (d) (No change in text.)

10A:9-3.15 Written procedures

- (a) (No change.)
- (b) These written procedures shall be reviewed and updated annually and submitted to the [Bureau of Correctional Information and Classification Services, Office of Policy and Planning,] **Division of Operations** for review and approval.

SUBCHAPTER 4. ELIGIBILITY CRITERIA FOR REDUCED CUSTODY CONSIDERATION

10A:9-4.3 Custody status

- (a) – (d) (No change.)
- (e) Inmates classified as "full minimum custody status" are those assigned to:
 1. (No change.)
 2. A satellite unit or minimum security [trailer] unit.
- (f) Inmates must be classified as "community custody status" in order to participate in residential community programs (see N.J.A.C. 10A:20) [or to be assigned to community-based jobs.]. Community custody status may require periodic supervision in the community as appropriate to circumstances of work or activities. Full minimum custody status is a prerequisite to obtaining community custody status.

10A:9-4.4 Authority of classification committees

- (a) Changes in inmate custody status within a particular correctional facility shall be made by the Institutional Classification Committee (I.C.C.).
 1. In an emergency situation, or when additional information is received which negatively affects an inmate's suitability to remain in reduced custody, the inmate's custody level may be increased by order of the Administrator, Associate Administrator, Assistant Superintendent, or [Director of Custody Operations] **Correction Major**.
 2. (No change.)
- (b) [The I.C.R.C. is] **Reception Centers** are authorized, at initial classification, to assign eligible inmates directly to full minimum custody status [at Jones Farm and other minimum security correctional facilities] without the prerequisite of a successful completion of time in gang minimum custody status.
- [(c) The I.C.C. at Edna Mahan Correctional Facility for Women (EMCF) is authorized to assign eligible inmates directly to full minimum custody status without the prerequisite of a successful completion of time in gang minimum custody status.]

10A:9-4.5 Discretion of Institutional Classification Committee (I.C.C.); factors to be considered

- (a) – (d) (No change.)
- (e) An inmate who has been granted reduced custody status may have his or her custody status increased for any of the following reasons, subject to confirmation by the I.C.C.:
 1. (No change.)
 2. Upon receipt of a [non-permissive] **non-permissible** detainer;
 3. – 5. (No change.)

(f) (No change.)

10A:9-4.6 Criteria for consideration for gang minimum custody status and full minimum custody status

(a) (No change.)

(b) Inmates who have had their contact visit privileges terminated due to a finding of guilt to a prohibited act identified in a zero tolerance policy as established in N.J.A.C. 10A:4-5.1 and 12 shall not be eligible for consideration for any custody status lower than medium custody until after contact visit privileges are reinstated (see N.J.A.C. 10A:18-6.20).

[(c) As a condition of eligibility for consideration of any custody status lower than medium custody, inmates who are assigned to a therapeutic community (T.C.) or treatment program must accept, participate and successfully complete the assignment.

(d) As a condition of eligibility for consideration of any custody status lower than medium custody, inmates shall be required to complete the clinical screening for substance use disorder treatment.]

Recodify existing (e)-(g) as **(c)-(e)** (No change in text.)

[(h) Inmates returned to custody for violation of parole who were sentenced under the No Early Release Act (NERA) at N.J.S.A. 2C:43-7.2 shall be eligible for reduced custody status, which shall be calculated as specified in (i) below.

(i) Inmates who were considered for reduced custody status prior to April 2, 1990, and were sentenced to serve mandatory minimum terms of more than 24 months are eligible to be considered for gang minimum custody status and full minimum custody status when the following service of time has been met. Any presentence jail credit awarded on the instant offense shall be counted. No credit toward this requirement is to be given on any prior sentence which an inmate may currently be serving.

1. If the mandatory minimum is one-half or greater than one-half of the term imposed, the inmate shall serve one-half of the mandatory minimum. (EXAMPLE: If the term is 20 years and the mandatory minimum is 10 years, the inmate must serve five years.)

2. If the mandatory minimum is less than one-half of the term imposed, the inmate shall serve one-third of the mandatory minimum. (EXAMPLE: If the term is 20 years and the mandatory minimum is 8 years, the inmate must serve two years and eight months.)

3. However, in any instance where the application of (i)2 above would result in an inmate being eligible for consideration in less time than if he or she had no mandatory minimum, then the formula set forth in (f) above shall be applied such that the greater amount of time shall be spent in medium or higher custody status. (EXAMPLE: If the inmate has a 20 year term and a mandatory minimum of three years, he or she shall serve the two years required in (f) above instead of the one year which would be required under (i)2 above.)]

[(j)] **(f)** Inmates who were [considered for reduced custody status on or after April 2, 1990, and were] sentenced to serve mandatory minimum terms of more than 24 months are eligible to be considered for gang minimum custody status and full minimum custody status when the inmate has served one-half of the mandatory minimum or is within 24 months of the expiration of the mandatory minimum term, whichever is less. [(EXAMPLE 1: If the inmate has a mandatory minimum of three years, one-half of three years is equal to one year and six months. However, after the inmate serves one year on his or her three year mandatory minimum he or she is within 24 months of the expiration date. The inmate is therefore eligible for reduced custody status after having served only one year in medium or higher custody status because one year is less.

EXAMPLE 2: If the inmate has a mandatory minimum of five years, one-half of five years is two and one-half years. However, the inmate must serve three years prior to being within 24 months of the expiration date. The inmate is therefore eligible for reduced custody after having served only two and one-half years in medium or higher custody status because two and one-half years is less.) Any presentence jail credit awarded on the instant offense shall be counted. Time served on a prior sentence may not be applied to satisfy this requirement.]

[(k)] **(g)** In any instance where the application of [(j)] **(f)** above would result in an inmate being

eligible for consideration in less time than if he or she had no mandatory minimum, then the formula set forth in [(f)] **(d)** above shall be applied such that the greater amount of time shall be spent in medium or higher custody status. [(EXAMPLE: If the inmate has a 20 year term and a mandatory minimum of three years, he or she shall serve the two years required in (f) above instead of the one and one-half years which would be required under (j) above.)]

[(l)] When considering inmates with indeterminate sentences for reduced custody status, the I.C.C. shall take into account all presentence jail credits awarded by the court on the instant offense.

(m) Inmates with indeterminate sentences must have served the following number of months of their sentences to be eligible to be considered for a reduced custody status:

<u>Length of Sentence</u>	<u>Months in Medium or Higher Custody Status</u>
30 years to life	42
25 through 29 years	30
20 through 24 years	18
15 through 19 years	6
Up to 15 years	None]

[(n)] **(h)** Inmates with detainers from jurisdictions other than New Jersey shall not be eligible to be considered for reduced custody status unless the following provisions apply:

1. The detainers for adjudicated offenses are [for] concurrent sentences which do not exceed the maximum of the term currently being served; or

2. – 3. (No change.)

[(o)] **(i)** Inmates with an [out-of-State or Federal] open charge(s) regardless of the date of offense for the following serious offense(s) or any comparable out-of-State offense(s) shall not be eligible for reduced custody status:

1. – 8. (No change.)

9. Racketeering;

Recodify existing 9. and 10. as **10. and 11.** (No change in text.)

[(p)] **(j)** Inmates with an [out-of-State or Federal] open charge(s) for the following offense(s) or any comparable out-of-State offense(s) shall not be eligible for reduced custody status if the date of the offense(s) is within five years of the consideration:

1. – 7. (No change.)

[(q)] **(k)** An open charge exceeding five years for [(p)] **(j)** above shall not be considered a bar for reduced custody consideration.

[(r)] **(l)** Inmates who have a New Jersey detainer(s) are eligible to be considered for gang minimum custody status and full minimum custody status unless the detainer(s) is for **any 1st or 2nd degree offense or** one of the following **offenses**:

1. – 2. (No change.)

[3. Manufacturing, distribution or dispensing CDS offense if 1st or 2nd degree crimes;]

Recodify existing 4.-8. as **3.-7.** (No change in text.)

[9. Burglary as defined in N.J.S.A. 2C:18-2b and 2A:94-1 et seq.;

Recodify existing 10.-12. as **8.-10.** (No change in text.)

[13. Robbery as defined in N.J.S.A. 2C:15-1 and 2A:141.1 et seq.;

[14.] **11.** (No change in text.)

[15. Maintaining or operating a controlled dangerous substance production facility as defined in N.J.S.A. 2C:35-4;

16. Carjacking as defined in N.J.S.A. 2C:15-2;]

Recodify existing 17.-18. as **12.-13.** (No change in text.)

[(s)] Inmates with a New Jersey open charge(s) regardless of the date of the offense for the following offense(s) shall not be eligible for reduced custody status:

1. Homicide;

2. Maintaining or operating a CDS manufacturing facility;
3. Arson;
4. Sexual offense;
5. Kidnapping;
6. Criminal restraint;
7. False imprisonment;
8. Escape;
9. Carjacking; and/or

10. Criminal attempt and/or conspiracy to commit any of the above listed offenses.

(t) Inmates with a New Jersey open charge(s) for the following offenses shall not be eligible for reduced custody status if the date of the offense(s) is within five years of consideration:

1. Manufacturing, distributing or dispensing CDS offense if 1st or 2nd degree crimes;
2. Offense of an assaultive nature;
3. Burglary of the 2nd degree;
4. Weapons offense;
5. Robbery;
6. Terroristic threat; and/or
7. Criminal attempt and/or conspiracy to commit any of the above listed offenses.

(u) An open charge(s) exceeding five years for (t) above shall not be considered a bar for reduced custody consideration.]

(m) Municipal open charges and detainers are permissible provided that they are not in the process of being increased in severity.

Recodify existing (v)-(w) as **(n)-(o)** (No change in text.)

10A:9-4.7 Eligibility limitations for reduced custody status

(a) – (b) (No change.)

(c) An inmate who has two or more convictions, either present, prior, or a combination of present and prior for the offenses listed below, or **for** attempts or conspiracies to commit these offenses (see N.J.S.A. 2C:5-1 and 5-2) under the laws of this State, or any comparable offenses from any other state or the United States, is not eligible for reduced custody:

1. The sexual offenses are as follows:

2C:11-3(3) Murder in which the underlying crime is sexual assault;

...

2. (No change.)

(d) An inmate who [presently is serving a sentence for one count of an arson offense and who has a prior adult conviction for an arson offense; an inmate who presently is serving a sentence for more than one count of an arson offense; or an inmate who presently is serving a sentence for a non-arson offense but who has more than one prior adult conviction for an arson offense,] **has two or more convictions, either present, prior, or a combination of present and prior for arson, or attempts or conspiracies to commit arson under the laws of this State, or any comparable offenses from any other state or the United States,** may not be considered for reduced custody.

(e) An inmate who has two or more convictions for a sexual offense or other offense as listed in (c) above, arson, [or fire setting] or criminal mischief involving arson or any combination of these offenses shall not be eligible for reduced custody consideration.

(f) (No change.)

10A:9-4.8 Criteria for consideration for gang minimum custody status only

(a) – (c) (No change.)

(d) An inmate who presently is serving a sentence for one conviction of arson [or fire setting or malicious destruction involving arson,] with no previous such adult convictions; or an inmate

presently serving a sentence for [a nonarson offense] **an offense that does not preclude reduced custody status** but who has a prior adult conviction for arson[, fire setting or malicious destruction involving arson,] is eligible to be considered for gang minimum custody status provided:

1. – 2. (No change.)

(e) (No change.)

10A:9-4.9 Assignment of inmates to [satellite] **minimum** units[, except Jones Farm and Rahway Camp]

(a) – (b) (No change.)

(c) Each parent correctional facility shall develop written guidelines consistent with this subchapter. These guidelines shall be submitted to the [Assistant Commissioner,] Division of Operations, New Jersey Department of Corrections, for review and approval.

(d) (No change.)

SUBCHAPTER 5. COMMUTATION AND WORK TIME

10A:9-5.1 Authority

(a) Commutation credit is awarded to inmates pursuant to N.J.S.A. 30:4-140, which provides:

1. – 4. (No change.)

5. [In case of any flagrant misconduct, commutation] **Commutation** credits may be declared to be forfeited pursuant to N.J.A.C. 10A:9-5.3 **and 5.4**.

(b) (No change.)

10A:9-5.3 Forfeiture of commutation credits and work credits

(a) - (b) (No change.)

(c) Pursuant to N.J.S.A. 2C:47-3.d, if the court finds that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior and that the offender is willing to participate in sex offender treatment, but is determined not to be amenable to such treatment, his or her sentence shall not be reduced by commutation time for good behavior or credits for diligent application to work and other institutional assignments.

(d) Pursuant to N.J.S.A. 2C:47-3.e, if the court finds that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior and that the offender is amenable to sex offender treatment, but that the offender is not willing to participate in such treatment, his or her sentence shall not be reduced by commutation time for good behavior or credits for diligent application to work and other institutional assignments.

(e) Pursuant to N.J.S.A. 2C:47-8, if the court finds that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior and that the offender is willing and amenable to participate in sex offender treatment, but fails to fully cooperate in such treatment, his or her sentence shall not be reduced by commutation time for good behavior or credits for diligent application to work and other institutional assignments.

10A:9-5.5 Restoration of forfeited commutation credits

(a) (No change.)

(b) **Commutation credits forfeited for failure to participate in sex offender treatment, as described in N.J.A.C. 10A:9-5.3(c), (d), or (e), shall not be eligible for restoration.**

[(b)] (c) (No change in text.)

[(c)] (d) The following procedures for restoring forfeited commutation credits apply to all inmates who received charges for acts which occurred on or after May 24, 1979, except as otherwise set forth in this section.

1. Up to 75 percent of the forfeited commutation credits may be restored [to inmates] over the three year period following the incident which resulted in the loss of commutation credits. The three years must run consecutively, calculated [beginning with] **from** the date of the incident. Credits shall be restored at the rate of 25 percent for each year [which] **the inmate is in**

custody and is free of any disciplinary charges with a guilty finding. [, as follows:

i. If the inmate completes only one year without a charge which results in a guilty finding, he or she will have 25 percent of the forfeited credits restored at the completion of that year.

ii. If the inmate completes any two years of the three year period without a charge which results in a guilty finding, he or she will have 50 percent of the forfeited credits restored at the rate of 25 percent at the completion of each of the respective two years.

iii. If the inmate completes all three years without a charge which results in a guilty finding, the inmate will have 75 percent of the forfeited credits restored at the rate of 25 percent at the completion of each of the respective three years.

Example: An inmate commits a disciplinary infraction on January 1, 1985, and the sanction imposed includes a forfeiture of commutation credits. On January 25, 1985, the inmate commits another disciplinary infraction and is found "guilty." The inmate receives no disciplinary charge between January 25, 1985, to January 25, 1986. The inmate, therefore, has 25 percent of his or her commutation credits restored. The inmate is again free of guilty findings from January 25, 1986, to January 25, 1987, an additional 25 percent of his or her commutation credits is restored. From January 25, 1987 to January 25, 1988, the inmate is again free of guilty finding but is not eligible for an additional 25 percent restoration of commutation time because more than three years have elapsed since January 1, 1985, the date which resulted in the loss of commutation credits.]

2. (No change.)

[(d)] (e) (No change in text.)

[(e)] (f) Any inmate who feels that he or she meets the qualifications for restoration must submit an application for restoration of commutation credits to the correctional facility classification officer [for consideration at the appropriate time intervals]. **The inmate may submit the application at any time after he or she becomes eligible for restoration.** The classification officer will not act unless an inmate submits an application. A review of the inmate's eligibility on restoration shall be made in accordance with this subchapter by the classification officer and forwarded to the Administrator, who shall [make the restoration determination] **approve the restoration.**

[Example: An inmate commits a disciplinary infraction on June 30, 1987. The sanction imposed includes a forfeiture of 160 commutation credits. The inmate receives no findings of guilty through the disciplinary process between June 30, 1987 and June 30, 1988. The inmate, therefore, has 40 credits restored on June 30, 1988. The inmate is again free of guilty findings from June 30, 1988 through June 30, 1989 and has another 40 credits restored. The inmate is to be paroled on March 30, 1990. Thus, he or she will only serve nine months (or 3/4) of the third year. The Administrator, in his or her discretion, may restore 75 percent of the 40 credits or 30 credits as of March 30, 1990.]

[(f)] (g) (No change in text.)

[(g)] (h) Any inmate under the jurisdiction of the Office of Interstate Services must submit an application for restoration of commutation credits lost to the classification officer of the Office of Interstate Services. A review of the inmate's eligibility on restoration of credits by the classification officer shall be made in accordance with this subchapter and forwarded to the [Chief] **supervisor** of the Office of Interstate Services who shall make the restoration determination.

Recodify existing (h) and (i) as (i) and (j) (No change in text.)

10A:9-5.6 Work credits for State-sentenced inmates housed in adult county correctional facilities (a) – (e) (No change.)

[(f) Inmates with approved parole dates who are transferred to adult county correctional facilities prior to parole shall receive work credits as if the inmates were still assigned to a five day or seven day per week job in a State correctional facility. Inmates in minimum custody status at the

time of transfer shall continue to receive compensation for that status during their stay in the adult county correctional facility in accordance with N.J.S.A. 30:4-92.]

SUBCHAPTER 6. INSTITUTIONAL CLASSIFICATION RECEPTION COMMITTEE (I.C.R.C.)

10A:9-6.1 Responsibilities of the Institutional Classification Reception Committee (I.C.R.C.)

(a) The I.C.R.C. shall be responsible for:

1. The initial custody status and correctional facility assignments of inmates who have been committed to the custody of the Commissioner, Department of Corrections; **and**
2. The custody status and correctional facility assignment of male parole violators, escapees, and Interstate Corrections Compact transferees[; and].
- [3. Recommending inmates at the Central Reception Assignment Facility (CRAF) who are considered appropriate for Protective Custody (see N.J.A.C. 10A:5).]

10A:9-6.2 Composition of the Institutional Classification Reception Committee (I.C.R.C.)

(a) – (b) (No change.)

(c) A representative from the [Division of Programs and Community Services] **Office of Substance Abuse Programming and Addiction Services** shall serve as a member of the I.C.R.C.

10A:9-6.3 Criteria for assignment of inmates

(a) Decisions regarding the degree of custody required and the correctional facility assignment for inmates shall be made by the I.C.R.C. while the inmate is in the initial classification process. These decisions shall be based on:

1. – 3. (No change.)
4. Previous criminal and/or [correctional facility] **institutional** history;
5. – 10. (No change.)

SUBCHAPTER 7. INTER-INSTITUTIONAL TRANSFER

10A:9-7.1 Procedure for initiating transfer requests

(a) (No change.)

(b) Requests for transfer also may be initiated by the Commissioner or designee [or the Assistant Commissioner of the Division of Operations].

(c) – (d) (No change.)

10A:9-7.2 Procedure for reviewing nonemergency transfer [funds] **requests**

(a) (No change.)

[b] When the request is initiated by the Administrator or any person other than the inmate authorized by N.J.A.C. 10A:9-7.3, the I.C.C. shall send a written notice to the inmate advising that a transfer request has been made and that the request will be considered at the next regularly scheduled I.C.C. meeting. The I.C.C. shall also advise the inmate that he or she may submit written comments to the I.C.C. regarding the proposed transfer.]

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

[d] **(c)** After considering all information which the I.C.C. shall deem relevant, the Committee shall render a decision to recommend or deny the transfer request. A notice of decision and a statement of [reasons therefore] **reason(s) therefor** shall be sent to the inmate and to the Administrator.

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

[f] The Administrator of the potential receiving correctional facility shall consider all information submitted and shall determine whether the requested transfer shall be approved.

(g) The Administrator of the potential receiving correctional facility shall send written notification of the decision and the reasons therefor to:

1. The Administrator of the sending facility;

2. The authorized person who made the request; and

3. The I.C.C. of the sending facility.

(h) The Administrator or designee of the sending facility shall give notice of the final decision to the inmate.]

[(i)] (e) [If the transfer request is] **If** approved by the Administrator of the receiving facility, the Administrator at the correctional facility where the inmate is housed shall forward the [Form] CRAF-003 Agreement of Transfer **form** to the [correctional facility] intake coordinator who shall make the necessary arrangements to effectuate the transfer.

10A:9-7.3 Procedure for reviewing emergency transfer requests

(a) – (b) (No change.)

(c) Form 852--I Authorization for Emergency Transfer shall be utilized for disciplinary or administrative transfers of an [emergency] **emergent** nature. A copy of Form 852--I shall be forwarded to the Assistant Commissioner, or the Director from whom verbal approval was secured within three business days of the verbal approval.

(d) (No change.)

(e) When the Assistant Commissioner, or the Director confirms the transfer, a copy of Form 852-I Authorization for Emergency Transfer shall be forwarded to the following:

1. The Administrator of the sending correctional facility; **and**

2. The Administrator of the receiving correctional facility[; and].

[3. The I.C.C.]

[(f) When the Administrator of sending correctional facility confirms or fails to confirm the transfer, the Administrator or designee shall notify the inmate.]

[(g)] (f) (No change in text.)

10A:9-7.5 Procedures for transfers

Upon approval of a requested transfer [by the Administrator, Assistant Commissioner or Director or,] the sending correctional facility shall [arrange and then] coordinate **with the receiving correctional facility** the date and time of the transfer of the inmate, along with his or her records and property [,with the receiving correctional facility].

SUBCHAPTER 8. SPECIAL CLASSIFICATION REVIEW BOARD (S.C.R.B.)

10A:9-8.2 Composition of the Special Classification Review Board (S.C.R.B.)

(a) – (d) (No change.)

(e) The S.C.R.B. shall meet at the Adult Diagnostic and Treatment Center (A.D.T.C.) once per [month] **calendar year quarter (four times annually)**, or more often as deemed necessary, on a day and at a time agreed on by S.C.R.B. members. Special meetings may be held when called by the Chairperson or Vice Chairperson. A majority of S.C.R.B. members must be present to conduct official business.

(f) **All non-State employee members shall be compensated at a rate determined by the Commissioner for duties performed pursuant to N.J.A.C. 10A:9-8.4.**

SUBCHAPTER 9. COMMUNITY CORRECTIONS CLASSIFICATION COMMITTEE (C-4)

10A:9-9.1 Responsibility of the Community Corrections Classification Committee (C-4)

The C-4 shall be responsible for the assignment to a correctional facility or a residential community program and to make a recommendation of custody status when an inmate has been returned from a residential community program [or Electronic Monitoring Program (EMP)].

10A:9-9.2 Composition of the C-4

(a) The members of the C-4 shall be:

1. An [Administrator] **Assistant Superintendent** or designee [of a correctional reception center] **from the Division of Programs and Community Services;**

2. (No change.)

3. A Division of Operations representative (**optional**); and
[4. Two Division of Community Programs representatives; and]
[5.] **4.** [A Division of Drug Programs] **An Office of Substance Abuse Programming and Addiction Services** representative (**optional**).

10A:9-9.3 C-4 decision making criteria

(a) Decisions regarding the assignment to a correctional facility or a residential community program and the recommendation of a custody status when an inmate has been returned from a residential community program [or Electronic Monitoring Program (EMP)] shall be based upon:

1. – 12. (No change.)

SUBCHAPTER 10. RESIDENTIAL COMMUNITY PROGRAM NOTIFICATION COMMITTEE

10A:9-10.2 Composition of the Residential Community Program Notification Committee

(a) (No change.)

(b) The following units shall provide a representative to be a voting member of the Committee:

1. – 2. (No change.)

[3. The Office of Internal Support and Outreach Services;]

[4.] **3.** The Office of [Drug Programs; and] **Substance Abuse Programming and Addiction Services;**

[5.] **4.** The Office of Transitional Services[.]; and

5. The Office of Victim Services.

(c) (No change.)