

PUBLIC NOTICE

CORRECTIONS

THE COMMISSIONER

Notice of Action on Petition for Rulemaking

Post-Prehearing Detention Status

N.J.A.C. 10A:4

Petitioner: Shamsiddin A. Abdur-Raheem.

Take notice that on February 26, 2015, the New Jersey Department of Corrections received a petition for rulemaking from the above petitioner requesting that the Department adopt a new rule establishing a new “Post-Prehearing Detention Status” at N.J.A.C. 10A:4. Specifically, petitioner requests that N.J.A.C. 10A:4, be amended to include the new “Post-Prehearing Detention Status” which would apply when “inmates charged with a prohibited act under N.J.A.C. 4-4.1” are in prehearing detention “awaiting investigation and/or adjudication” and “has served the maximum amount of detention days for the charge(s).”

The petitioner states that the proposed “Post-Prehearing Detention Status (Post PHD) will release inmates confined to prehearing detention ...who are awaiting investigation and/or adjudication ...due to extraordinary postponement ...when the time of postponement ... exceeds the maximum amount of detention days an inmate is to [only] serve for the charge(s).” The petitioner further states that “once an inmate has served the maximum amount of detention days for the charge(s) ...this inmate should then be released from PHD and transferred to the proposed Post PHD status consistent

with his underlying basic housing status ... that will restore the inmate to full rights and privileges.”

The Commissioner hereby certifies that the petition has been duly considered, and has determined that the Department shall deny the petition for formal rulemaking. The factors considered in determining whether confinement in Prehearing Detention is warranted appear at N.J.A.C. 10A:4-10.1(a) and (c) and those factors will not change whether or not the hearing is postponed. It is the responsibility of the Department to maintain safety and security within its correctional facilities by housing inmates in a secure control unit who present a threat to other inmates, staff members, the inmate, or to the safe, secure, and orderly operations of the correctional facility. Accordingly, the proposed rule is contrary to the Department’s obligation to maintain safety and security within its facilities.

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.