

## RULE PROPOSALS

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### 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.

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## CORRECTIONS

### THE COMMISSIONER

#### Restrictive Housing

**Proposed Amendments:** N.J.A.C. 10A:1-1.1, 2.2; 10A:3-2.3; 10A:4-1.3, 1.4, 4.1, 5.1, 7.2, 9.1, 9.2, 9.7, 9.8, 9.17, 9.18, 9.21, 10.1, 10.3 through 10.6, 10.8, 10.10 through 10.15, 10.17, 10.18, 11.3, and 11.7; 10A:5-1.3, 2.6, 3.1, 3.2, and 7.1; 10A:9-2.13, 4.8, and 4.9; 10A:14-1.7; and 10A:18-2.21, 3.11, 4.16, 5.9, and 6.5

**Proposed Repeals: N.J.A.C. 10A:4-5.3, 6, 9.22, and 10.2**

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

Authority: N.J.S.A. 26:3D-57, 30:1B-6, 30:1B-10, 30:4-123.47.c, 52:27EE-26, and 53:1-20.17 et seq.; and P.L. 2007, c. 204.

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

Proposal Number: PRN 2016-082.

Submit written comments by August 5, 2016, to:

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The agency proposal follows:

**Summary**

The operation and security of correctional facilities is dependent upon an order of discipline, including proportionate sanctions for rule infractions based on the severity of offense. When inmate behavior results in serious violations of the schedule of prohibited acts (at N.J.A.C. 10A:4-4.1) and threatens the safety of inmates and Department of Corrections (“Department” or “DOC”) staff and/or the orderly operation and security of facilities, the Department has used

disciplinary detention as a sanction as defined in N.J.A.C. 10A:4-1.4 and 5.1 and 10A:9-2.13.

Based on social trends, advocacy positions, medical and mental health association position statements, and pending New Jersey State legislation purporting to show that inmate segregation, under certain circumstances, can exacerbate mental health deterioration, the Department proactively proposes the amendments herein designed to address these concerns. As such, the Department proposes the following overarching amendments to limit the use and duration of administrative segregation while maintaining appropriate order and security in DOC facilities:

- elimination of detention as a sanction;
- reclassification of the schedule of prohibited acts at N.J.A.C. 10A:4-4.1;
- placing limitations on administrative segregation sanctions and inmate segregation;
- reclassification of the schedule of sanctions for prohibited acts at N.J.A.C. 10A:4-5.1 with appropriate exposure in administrative segregation based on the severity of offense;
- limiting inmate exposure to no more than 365 days of administrative segregation per incident;
- transporting inmates to an administrative segregation unit within 72 hours of being sanctioned, absent any extenuating circumstances; and
- reclassification of the severity of offense scale at N.J.A.C. 10A:9-2.13.

### **Elimination of Detention as a Sanction**

The elimination of detention as a sanction will aide in decreasing inmate segregation and have a positive impact on the inmate population. The proposed elimination of detention as a sanction results in the following terminology changes to the Department's rules. The Department, therefore, proposes, among other things to eliminate use of the terms and/or the definitions for detention, disciplinary detention, and prehearing detention at N.J.A.C. 10A:1-1.1

and 2.2 and 10A:5-1.3. Elimination of detention as a sanction also leads the Department to propose the addition of a definition for prehearing disciplinary housing at N.J.A.C. 10A:1-1.1, 2.2, 10A:3-2.3, and 10A:5-1.3. Proposed changes to references from detention and/or pre-hearing detention to pre-hearing disciplinary housing also result from elimination of detention as a sanction at N.J.A.C. 10A:4-1.4, 9.7, 9.8, 9.21, and 10.1. In addition, the Department proposes to delete the phrase, “to serve the sanction imposed” as N.J.A.C. 10A:4-9.17(d), as prehearing disciplinary housing is not used to serve sanctions. The Department proposes replacement of the terms detention unit or disciplinary detention with close custody unit at N.J.A.C. 10A:4-10.1, 10.3, 10.5, 10.6, 10.8, 10.10, 10.11, 10.12, 10.13, 10.14, 10.15, 10.17, 10.18, 11.3, and 11.7, and 10A:5-7.1; and replacement of the term detention facility with close custody and/or close custody unit at N.J.A.C. 10A:14-1.7 , 10A:18-2.21, 3.11, 4.16, and 5.9. The Department proposes elimination of the last sentence of N.J.A.C. 10A:4-10.3(b) since the sentence addresses disciplinary detention and the detention program that has been eliminated.

The Department also proposes to remove reference to the term detention program at N.J.A.C. 10A:18-6.5(c), since detention as a sanction and any related program is proposed for elimination.

Rules and use of the terms related to Special Classification Committee (S.C.C.) at N.J.A.C. 10A:3-2.3 and 10A:4-1.3 are proposed for deletion and chronic violator at N.J.A.C. 10A:4-6 apply only with reference to detention and are therefore proposed for repeal, with the elimination of detention as a sanction. The Department also proposes elimination of the reference to two chronic violator forms at N.J.A.C. 10A:4-1.4(b)1 and 2.

Emergency inter-complex transfers will no longer be required as set forth in N.J.A.C. 10A:4-9.22 given the proposed immediate transfer of inmates to prehearing disciplinary housing followed by a 72-hour transfer to administrative segregation, barring any extenuating

circumstances that might prevent transfers within these timeframes. The Department, therefore, proposes to repeal N.J.A.C. 10A:4-9.22, emergency inter-complex transfers with the exception of subsection (h). Reference to the transfer of juveniles formerly set forth at N.J.A.C. 10A:4-9.22(h) is relocated to N.J.A.C. 10A:4-9.21(g) where the rules for “emergency transfers to another facility or unit” are set forth.

With the proposed elimination of detention as a sanction, N.J.A.C. 10A:4-10.2, Placement in disciplinary detention, is proposed for repeal.

### **Reclassification of the Schedule of Prohibited Acts**

A review of the effectiveness of the inmate disciplinary process and a commitment to judiciously expedite the reintegration of inmates to the general population led to the Department proposing to reclassify and rebalance the schedule of prohibited acts at N.J.A.C. 10A:4-4.1(a). The proposed amendments modify the current reclassification scheme of prohibited acts from two-levels (asterisk and non asterisk offenses) to a five-level scheme using categories A through E. The reclassification and use of a five-level scheme also includes a reclassification and rebalancing of the schedule of sanctions at N.J.A.C. 10A:4-5.1 and the severity of offense scale at N.J.A.C. 10A:9-2.13 as discussed in more detail below.

The schedule of prohibited acts appearing at N.J.A.C. 10A:4-4.1(a) is proposed for deletion and replacement with the five new categories (A through E) at N.J.A.C. 10A:4-4.1(a)1 through 5. A mapping of each prohibited act to the proposed new categories follows in Table 1. With the proposed reclassification of prohibited acts into five categories, the definition of “major violations” and “minor violations” at N.J.A.C. 10A:4-1.3 are no longer applicable, therefore, the Department proposes to delete them. At N.J.A.C. 10A:1-2.2, the Department proposes to modify

the definition of Asterisk offense, to indicate said offenses are in Categories A and B and to modify Non-asterisk offense, to indicate said offenses are in Categories C, D, and E.

In addition to reclassifying and rebalancing the schedule of prohibited acts, the proposed amendments include eliminating self-mutilation as an infraction to enable the behavior to be addressed and treated as a mental health event, rather than a disciplinary issue. As such, prohibited act 652, Tattooing and Self-Mutilation at N.J.A.C. 10A:4-4.1(a), is proposed for deletion and replacement with new prohibited act 653, Tattooing at N.J.A.C. 10A:4-4.1(a)1.

In examining and rebalancing the prohibited acts, the Department has determined that prohibited act .211, possessing any staff member's clothing and/or equipment, and prohibited act .502, interfering with the taking of count, must be escalated in severity and sanction due to the potential for security breaches resulting from these infractions. The Department proposes to accomplish this by deleting all prohibited acts at N.J.A.C. 10A:4-4.1(a) and replacing them at N.J.A.C. 10A:4-4.1(a)2 and adding a preceding asterisk thereby increasing the related severity of offense scale ranking and including these acts in Category B.

In order to reflect more commonly used work unit names, the Department proposes to replace the terms “community release program” in prohibited act .257 with “Residential Community Program and Residential Community Release Program.” The Department proposes to expand the definition of prohibited act .360, unlawfully obtaining or seeking to obtaining personal information pertaining to an inmate’s victim or the victim’s family to also include the words “or pertaining to DOC staff or other law enforcement staff or the family of said staff.” These changes are proposed out of concern for the safety and security of said individuals, as there have been incidents in which inmates have sought out such information.

The schedule of prohibited acts that follows reflects the proposed amendments to prohibited acts .211, .257, .360, .502, .652, and .653 as noted above.

Table 1  
Schedule of Prohibited Acts Mapping

Current N.J.A.C. 10A:	Proposed N.J.A.C. 10A:	Act No.	Offense Description
4-4.1(a)	4-4.1(a)1i	*.001	killling
4-4.1(a)	4-4.1(a)1ii	*.002	assaulting any person
4-4.1(a)	4-4.1(a)1iii	*.003	assaulting any person with a weapon
4-4.1(a)	4-4.1(a)2i	*.004	fighting with another person
4-4.1(a)	4-4.1(a)2ii	*.005	threatening another with bodily harm or with any offense against his or her person or his or her property
4-4.1(a)	4-4.1(a)2iii	*.006	extortion, blackmail, protection: demanding or receiving favors, money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing
4-4.1(a)	4-4.1(a)1iv	*.007	hostage taking
4-4.1(a)	4-4.1(a)2iv	*.008	abuse/cruelty to animals
4-4.1(a)	4-4.1(a)1v	*.009	misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device, equipment or peripheral that is capable of

			transmitting, receiving or storing data and/or electronically transmitting a message, image or data that is not authorized for use or retention (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2)
4-4.1(a)	4-4.1(a)3i	.009A	misuse, possession, distribution, sale or intent to distribute or sell, an electronic communication device, equipment or peripheral that is capable of transmitting, receiving or storing data and/or electronically transmitting a message, image or data that is not authorized for use or retention by an inmate who is assigned to a Residential Community Release Program (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2).
4-4.1(a)	4-4.1(a)2v	*.010	participating in an activity(ies) related to a security threat group
4-4.1(a)	4-4.1(a)2vi	*.011	possession or exhibition of anything related to a security threat group
4-4.1(a)	4-4.1(a)1vi	*.012	throwing bodily fluid at any person or otherwise purposely subjecting such person to contact with a bodily fluid
4-4.1(a)	4-4.1(a)3ii	.013	unauthorized physical contact with any person,



			such as, but not limited to, physical contact not initiated by a staff member, volunteer or visitor
4-4.1(a)	4-4.1(a)2vii	*.014	unauthorized physical contact with any person with an article, item or material such as anything readily capable of inflicting bodily injury
4-4.1(a)	4-4.1(a)1vii	*.050	sexual assault
4-4.1(a)	4-4.1(a)3iii	.051	engaging in sexual acts with others
4-4.1(a)	4-4.1(a)3iv	.052	making sexual proposals or threats to another
4-4.1(a)	4-4.1(a)3v	.053	indecent exposure
4-4.1(a)	4-4.1(a)2vii	*.054	refusal to register as a sex offender or any refusal to register as required by law
4-4.1(a)	4-4.1(a)1viii	*.101	escape
4-4.1(a)	4-4.1(a)2ix	*.102	attempting or planning escape
4-4.1(a)	4-4.1(a)3vi	.103	wearing a disguise or mask
4-4.1(a)	4-4.1(a)2x	*.150	tampering with fire alarms, fire equipment or fire suppressant equipment
4-4.1(a)	4-4.1(a)1ix	*.151	setting a fire
4-4.1(a)	4-4.1(a)4i	.152	destroying, altering, or damaging government property, or the property of another person
4-4.1(a)	4-4.1(a)2xi	*.153	stealing (theft)
4-4.1(a)	4-4.1(a)2xii	*.154	tampering with or blocking any locking device
4-4.1(a)	4-4.1(a)2xiii	*.155	adulteration of any food or drink

4-4.1(a)	4-4.1(a)2xiv	*.201	possession or introduction of an explosive, incendiary device or any ammunition
4-4.1(a)	4-4.1(a)1x	*.202	possession or introduction of a weapon, such as, but not limited to, a sharpened instrument, knife or unauthorized tool
4-4.1(a)	4-4.1(a)2xv	*.203	possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
4-4.1(a)	4-4.1(a)2xvi	*.204	use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
4-4.1(a)	4-4.1(a)3vii	.204A	use by an inmate who is assigned to a Residential Community Program of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
4-4.1(a)	4-4.1(a)2xvii	*.205	misuse of authorized medication
4-4.1(a)	4-4.1(a)4ii	.206	possession of money or currency (\$50.00 or less) unless specifically authorized
4-4.1(a)	4-4.1(a)2xviii	.207	possession of money or currency (in excess of \$50.00) unless specifically authorized
4-4.1(a)	4-4.1(a)5i	.208	possession of property belonging to another

			person
4-4.1(a)	4-4.1(a)5ii	.209	loaning of property or anything of value
4-4.1(a)	4-4.1(a)4iii	.210	possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels
4-4.1(a)	4-4.1(a)2xix	*.211	possessing any staff member's clothing and/or equipment
4-4.1(a)	4-4.1(a)3viii	.212	possessing unauthorized clothing
4-4.1(a)	4-4.1(a)5iii	.213	mutilating or altering clothing issued by the government
4-4.1(a)	4-4.1(a)2xx	*.214	possession of unauthorized keys or other security equipment
4-4.1(a)	4-4.1(a)2xxi	*.215	possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia
4-4.1(a)	4-4.1(a)2 xxii	*.216	distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia
4-4.1(a)	4-4.1(a)1xi	*.251	rioting
4-4.1(a)	4-4.1(a)1xii	*.252	encouraging others to riot
4-4.1(a)	4-4.1(a)2xxiii	*.253	engaging in, or encouraging, a group demonstration
4-4.1(a)	4-4.1(a)3ix	.254	refusing to work, or to accept a program or

			housing unit assignment
4-4.1(a)	4-4.1(a)2xiv	*.255	encouraging others to refuse to work or to participate in work stoppage
4-4.1(a)	4-4.1(a)4iv	.256	refusing to obey an order of any staff member
4-4.1(a)	4-4.1(a)5iv	.257	violating a condition of any Residential Community Program or Residential Community Release Program
4-4.1(a)	4-4.1(a)2xxv	*.258	refusing to submit to testing for prohibited substances
4-4.1(a)	4-4.1(a)2xxvi	*.259	failure to comply with an order to submit a specimen for prohibited substance testing (see N.J.A.C. 10A:3-5)
4-4.1(a)	4-4.1(a)2xxvii	*.260	refusing to submit to mandatory medical or other testing such as, but not limited to, mandatory testing required by law or court order
4-4.1(a)	4-4.1(a)2xxviii	*.261	tampering with a test specimen
4-4.1(a)	4-4.1(a)5v	.301	unexcused absence from work or any assignment; being late for work
4-4.1(a)	4-4.1(a)5vi	.302	malingering, feigning an illness
4-4.1(a)	4-4.1(a)5vii	.303	failing to perform work as instructed by a staff member
4-4.1(a)	4-4.1(a)5viii	.304	using abusive or obscene language to a staff member

4-4.1(a)	4-4.1(a)4v	.305	lying, providing a false statement to a staff member
4-4.1(a)	4-4.1(a)2xxix	*.306	conduct which disrupts or interferes with the security or orderly running of the correctional facility
4-4.1(a)	4-4.1(a)3x	.351	counterfeiting, forging or unauthorized reproduction or use of any document not enumerated in prohibited act *.352
4-4.1(a)	4-4.1(a)2xxx	*.352	counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document
4-4.1(a)	4-4.1(a)1xiii	*.360	unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family or pertaining to DOC staff or other law enforcement staff or the family of said staff
4-4.1(a)	4-4.1(a)3xi	.401	participating in an unauthorized meeting or gathering
4-4.1(a)	4-4.1(a)3xii	.402	being in an unauthorized area
4-4.1(a)	4-4.1(a)5ix	.451	failure to follow safety or sanitation regulations
4-4.1(a)	4-4.1(a)5x	.452	using any equipment or machinery which is not

			specifically authorized
4-4.1(a)	4-4.1(a)5xi	.453	using any equipment or machinery contrary to instructions or posted safety standards
4-4.1(a)	4-4.1(a)3xiii	.501	failing to stand count
4-4.1(a)	4-4.1(a)2xxxix	*.502	interfering with the taking of count
4-4.1(a)	4-4.1(a)2xxxii	*.551	making intoxicants, alcoholic beverages or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia
4-4.1(a)	4-4.1(a)2xxxiii	*.552	being intoxicated
4-4.1(a)	4-4.1(a)3xiv	.552A	being intoxicated while the inmate is assigned to a Residential Community Program
4-4.1(a)	4-4.1(a)4vi	.553	smoking where prohibited
4-4.1(a)	4-4.1(a)4vii	.554	possession of tobacco products or matches where not permitted
4-4.1(a)	4-4.1(a)3xv	.601	gambling
4-4.1(a)	4-4.1(a)3xvi	.602	preparing or conducting a gambling pool
4-4.1(a)	4-4.1(a)3xvii	.603	possession of gambling paraphernalia
4-4.1(a)	4-4.1(a)5xii	.651	being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards
4-4.1(a)	deleted	.652	tattooing or self-mutilation

New	4-4.1(a)4viii	.653	tattooing
4-4.1(a)	4-4.1(a)5xiii	.701	unauthorized use of mail or telephone
4-4.1(a)	4-4.1(a)3xviii	.702	unauthorized contacts with the public
4-4.1(a)	4-4.1(a)5xiv	.703	correspondence or conduct with a visitor in violation of regulations
4-4.1(a)	4-4.1(a)2xxxiv	*.704	perpetrating frauds, deceptions, confidence games, riots or escape plots
4-4.1(a)	4-4.1(a)3xix	.705	commencing or operating a business or group for profit or commencing or operating a nonprofit enterprise without the approval of the Administrator
4-4.1(a)	4-4.1(a)3xx	.706	soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator.
4-4.1(a)	4-4.1(a)5xv	.707	failure to keep a scheduled appointment with medical, dental or other professional staff
4-4.1(a)	4-4.1(a)2xxxv	*.708	refusal to submit to a search
4-4.1(a)	4-4.1(a)4ix	.709	failure to comply with a written rule or regulation of the correctional facility
4-4.1(a)	4-4.1(a)2xxxvi	*.751	giving or offering any official or staff member a bribe or anything of value
4-4.1(a)	4-4.1(a)3xxi	.752	giving money or anything of value to, or

			accepting money or anything of value from, another inmate
4-4.1(a)	4-4.1(a)3xxii	.753	purchasing anything on credit
4-4.1(a)	4-4.1(a)3xxiii	.754	giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose
4-4.1(a)	4-4.1(a)3xxiv,(a)4x, and (a)5xv.	.802	attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself
4-4.1(a)	4-4.1(a)1xiv and (a)2xxxvii	.803	attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself

**Placing Limitations on Administrative Segregation Sanctions and Inmate Segregation**



In order to limit the possibility of inmate exposure to isolation while maintaining order and discipline, new limitations and guidance on the application of the more severe sanctions are proposed as a preface to the actual sanctions as they apply to all categories (A through E) at N.J.A.C. 10A:4-5.1(a) through (d). The factors limiting exposure include application of sanctions per incident as opposed to per infraction, as numerous infractions can potentially occur per incident and concurrent serving of all sanctions for all charges per incident. As balancing measures that enable continued discipline and order at DOC facilities and Residential Community Release Programs (RCRP) it is proposed that imposition of sanctions be governed by the highest level, or most severe offense per incident and sanctions in the next highest level can be applied for repeat occurrences in separate incidences. With the proposed inclusion of sanction limitations at N.J.A.C. 10A:4-5.1(a) through (d), the limitation on sanctions at N.J.A.C. 10A:4-5.3 is proposed for repeal. The Department further proposes to amend the definition of “administrative segregation” at N.J.A.C. 10A:1-2.2 removing the words “or other administrative considerations,” so that administrative segregation sanctions apply only due to disciplinary infraction(s). The Department proposes to amend the definition of "temporary close custody" at N.J.A.C. 10A:5-1.3, such that temporary close custody does not apply to healthcare needs and provides for extension beyond 72 hours when information or evidence warrants said extension and shall be approved by the appropriate supervisor.

### **Reclassification of the Schedule of Sanctions and Maximizing Inmate Exposure to No More than 365 Days of Administrative Segregation per Incident**

In concert with the reclassification and rebalancing of the schedule of prohibited acts at N.J.A.C. 10A:4-5.1(a) through (d), the Department proposes the same five-level categories (A

through E) for the schedule of sanctions to maintain continuity across these three inter-related sections of these rules.

Following the addition of the proposed limitations on sanctions at N.J.A.C. 10A:4-5.1(a) through (d) and the elimination of detention as a sanction at recodified paragraphs (e)1 and (f)1, the Department also proposes the following changes. The proposed amendments provide proportionate sanctions for violations of prohibited acts proposed at N.J.A.C. 10A:4-4.1, yet are sufficient enough to influence positive inmate behavior modification. Changes are proposed to amend N.J.A.C. 10A:4-5.1(e), so that all findings of guilt for a Category A offense carry an administrative segregation sanction of no less than 181 days and no more than 365 days per incident. This proposed sanction carries a caveat such that if a health professional determines the inmate is not appropriate for placement in administrative segregation, the sanction will instead be one or more of the existing sanctions at recodified at N.J.A.C. 10A:4-5.1(e)1 through 7. In order to further apportion sanctions for violations to the severity of prohibited acts, the Department proposes to delete existing paragraph (e)1 with the elimination of detention as a sanction and paragraph (e)3 with the inclusion of an administrative segregation sanction at subsection (e). The Department proposes to replace N.J.A.C. 10A:4-5.1(a)11 and (b)11, regarding referral to a Mental Health Unit with new N.J.A.C. 10A:4-5.1(f) and (h), allowing for the Disciplinary Hearing Officer to refer inmates to the Mental Health Unit as necessary and appropriate. The Department proposes to relocate existing paragraph (a)10 to the final sentence of new subsection (f), substituting disciplinary hearing officer or Adjustment Committee with Administrator or designee as only they may suspend Category A sanctions. Additional amendments are proposed to further apportion sanctions based on the severity of violations of prohibited acts at N.J.A.C. 10A:4-5.1(g), so that all findings of guilt for a Category B offense carry an administrative

segregation sanction of no less than 91 days and no more than 180 days per incident. This proposed sanction carries a caveat, such that if a health professional determines the inmate is not appropriate for placement in administrative segregation the sanction will instead be one or more of the existing sanctions recodified at N.J.A.C. 10A:4-5.1(g)1 through 8. In addition, the Department proposes to delete existing paragraph (b)1 with the elimination of detention as a sanction and paragraph (b)4 with the inclusion of an administrative segregation sanction at subsection (f). The Department proposes to add new subsection (g), allowing for the Disciplinary Hearing Officer to refer inmates to the Mental Health Unit as necessary and appropriate. The Department proposes to relocate existing paragraph (b)10 to the final sentence of new subsection (g), substituting disciplinary hearing officer or Adjustment Committee with Administrator or designee as only they may suspend Category A sanctions.

As part of the sanction rebalancing, the Department proposes to add new N.J.A.C. 10A:4-5.1(i) to detail proportionally balanced sanctions applicable to a finding of guilt for all Category C offenses including an administrative segregation sanction of no less than 31 days and no more than 90 days per incident and the same type of sanctions found at recodified N.J.A.C. 10A:4-5.1(e)1 through 8 with only 60 days loss of commutation time as set forth at N.J.A.C. 10A:4-5.1(i)2.

As another element of sanction rebalancing, the Department proposes to add N.J.A.C. 10A:4-5.1(k) to detail sanctions applicable to a finding of guilt for all Category D offenses, including an administrative segregation sanction of no less than 0 days and no more than 30 days per incident and the same type of sanctions found at recodified N.J.A.C. 10A:4-5.1(e)1 through 8 with only 10 hours of extra duty. The Department also proposes further rebalancing of sanctions by adding N.J.A.C. 10A:4-5.1(m) to detail sanctions applicable to a finding of guilt for all Category E

offenses including the same type of sanctions found at N.J.A.C. 10A:4-5.1(e)1 through 8 with only four hours of extra duty as set forth at N.J.A.C. 10A:4-5.1(m)7 (administrative segregation is not applicable to Category E offenses).

The Director of Custody Operations title no longer exists and has been eliminated and replaced by Correction Major. Therefore, the Department proposes to replace Director of Custody Operations with Correction Major at N.J.A.C. 10A:4-7.2(d) and 10.1(d) and (e).

In order to further add a level of review for the more severe sanctions, the Department proposes to amend N.J.A.C. 10A:4-9.18(a), so that the Adjustment Committee or hearing officer can only suspend sanctions in Categories C, D, and E and add a higher level review as new N.J.A.C. 10A:4-9.18(b). The new rule permits suspension of sanctions for Category A and B offenses by the Administrator or designee for up to 60 days.

### **Transporting Inmates to an Administrative Segregation Unit within 72 Hours of being Sanctioned, Absent any Extenuating Circumstances**

The Department is proposing to minimize inmate time spent in segregation during prehearing disciplinary housing. The Department, therefore, proposes to move up the timeframe for Institutional Classification Committee (I.C.C.) review of an administrative segregation sanction from a review at the next scheduled meeting to immediate review at N.J.A.C. 10A:5-3.1(a) and to expeditiously transfer inmates to an administrative segregation unit when the facility the inmate is assigned to does not have an administrative segregation unit (not all DOC facilities have administrative segregation units) at N.J.A.C. 10A:5-3.1(e) and (f). In order to further minimize inmate time spent in segregation during prehearing disciplinary housing, the

Department proposes to allow the privileges of administrative segregation if the inmate is not transferred to administrative segregation within 72 hours and is not in an administrative segregation facility as set forth at N.J.A.C. 10A:5-3.1(g). In addition, the Department proposes to apply credits for time spent in prehearing disciplinary housing to be applied toward administrative segregation sanctions as N.J.A.C. 10A:5-3.1(g). In order to avoid delays in transferring inmates within 72 hours, the Department proposes new N.J.A.C. 10A:5-3.1(h) to allow for hearing confrontations to be heard via video conferencing. As an added security measure during inmate transfers, the Department proposes to amend recodified N.J.A.C. 10A:5-3.2(l), so that inmates are not informed of institutional destinations until just prior to the transfers.

### **Reclassification of the Severity of Offense Scale**

In conjunction with the elimination of detention as a sanction, the proposed reclassification of the schedule of prohibited acts and the proposed change to the schedule of sanctions from a two-level scheme to a five-level scheme, it is proposed that the same five levels or categories (A through E) be included in the severity of offense scale. The severity of offense scale is currently ranked in terms of highest, high, moderate, low moderate, low, and none at N.J.A.C. 10A:9-2.13(a)1 through 6. For the purposes of continuity and ease of understanding across the schedule of prohibited acts, sanctions and the severity of offense scale the Department proposes to use Categories A through E in the severity of offense scale, at N.J.A.C. 10A:9-2.13(a), and removing the numeric references of 1 through 6. No change is proposed to the text at N.J.A.C. 10A:9-2.13(a) 6 “none” except removal of the number 6. The Department further proposes to rebalance the severity offense scale rankings, so that the sanctions at N.J.A.C. 10A:4-5.1(a)1 through 5 are proportionate to the violation(s) and so that appropriate exposure in

administrative segregation, if any, can be applied based on the severity of offense. The approach of defining the proposed severity of offense scale is to amend N.J.A.C. 10A:9-2.13(b) through (f), as discussed in Table 2 below, setting forth the five new categories, rebalancing each prohibited act in the severity of offense scale mapping below.

Table 2  
Severity of Offense Scale Mapping

Current N.J.A.C. 10A:	Proposed N.J.A.C. 10A:	Act No.	Offense Description
9-2.13(b)	9-2.13(b)1	*.001	killling
9-2.13(b)	9-2.13(b)3	*.003	assaulting any person with a weapon
9-2.13(b)	9-2.13(b)4	*.007	hostage taking
9-2.13(b)	9-2.13(b)6	*.012	throwing bodily fluid at any person or otherwise purposely subjecting such person to contact with a bodily fluid
9-2.13(b)	9-2.13(b)7	*.050	sexual assault
9-2.13(b)	9-2.13(b)8	*.101	escape
9-2.13(b)	9-2.13(c)9	*.102	attempting or planning escape
9-2.13(b)	9-2.13(b)9	*.151	setting a fire
9-2.13(b)	9-2.13(b)2	*.201	possession or introduction of an explosive, incendiary device or any ammunition
9-2.13(b)	9-2.13(c)20	*.215	possession with intent to distribute or sell

			prohibited substances such as drugs, intoxicants or related paraphernalia
9-2.13(b)	9-2.13(c)21	*.216	distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia
9-2.13(b)	9-2.13(b)11	*.251	rioting
9-2.13(b)	9-2.13(b)12	*.252	encouraging others to riot
9-2.13(b)	9-2.13(a)14	*.202	possession or introduction of a gun, firearm, weapon, sharpened instrument, knife or unauthorized tool
9-2.13(c)	9-2.13(b)2	*.002	assaulting any person
9-2.13(c)	9-2.13(c)2	*.005	threatening another with bodily harm or with any offense against his or her person or his or her property
9-2.13(c)	9-2.13(c)3	*.006	extortion, blackmail, protection: demanding or receiving favors, money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing
9-2.13(c)	9-2.13(c)4	*.009	009 misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device, equipment or peripheral that is capable of transmitting, receiving or storing a message, image or data that is not authorized for use or retention (see "electronic

			communication device" definition at N.J.A.C. 10A:1-2.2)
9-2.13(c)	9-2.13(c)5	*.010	participating in an activity(ies) related to a security threat group unauthorized physical contact with any person with an article, item or material such as anything readily capable of inflicting bodily injury
9-2.13(c)	9-2.13(c)	*.014	unauthorized physical contact with any person with an article, item or material such as anything readily capable of inflicting bodily injury
9-2.13(c)	9-2.13(c)12	*.154	tampering with or blocking any locking device
9-2.13(c)	9-2.13(c)13	*.155	adulteration of any food or drink
9-2.13(c)	9-2.13(c)15	*.203	possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
9-2.13(c)	9-2.13(c)16	*.204	use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
9-2.13(c)	9-2.13(c)20	*.214	possession of unauthorized keys or other security equipment
9-2.13(c)	9-2.13(a)23	*.253	engaging in, or encouraging, a group demonstration



9-2.13(c)	9-2.13(c)24	*.255	encouraging others to refuse to work or participate in work stoppage
9-2.13(c)	9-2.13(c)25	*.258	refusing to submit to testing for prohibited substances
9-2.13(c)	9-2.13(c)26	*.259	failure to comply with an order to submit a specimen for prohibited substance testing
9-2.13(c)	9-2.13(a)28	*.261	261 tampering with a urine specimen
9-2.13(c)	9-2.13(a)29	*.306	conduct which disrupts or interferes with the security or orderly running of the correctional facility
9-2.13(c)	9-2.13(c)30	*.352	counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document
9-2.13(c)	9-2.13(c)32	*.551	making intoxicants, alcoholic beverages, or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia
9-2.13(c)	9-2.13(c)33	*.552	being intoxicated
9-2.13(c)	9-2.13(c)34	*.704	perpetrating frauds, deceptions, confidence games, riots or escape plots
9-2.13(c)	9-2.13(c)35	*.708	refusal to submit to a search or

9-2.13(c)	9-2.13(c)36	*.751	751 giving or offering any official or staff member a bribe or anything of value
9-2.13(d)	9-2.13(c)2	*.004	fighting with another person
9-2.13(d)	9-2.13(d)1	.009A	misuse, possession, distribution, sale or intent to distribute or sell, an electronic communication device, equipment or peripheral that is capable of transmitting, receiving or storing data and/or electronically transmitting a message, image or data that is not authorized for use or retention by an inmate who is assigned to a Residential Community Release Program (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2)
9-2.13(d)	9-2.13(b)11	*.011	possession or exhibition of anything related to a security threat group
9-2.13(d)	9-2.13(d)2	.013	unauthorized physical contact with any person, such as, but not limited to, physical contact not initiated by a staff member, volunteer or visitor
9-2.13(d)	9-2.13(d)3	.051	engaging in sexual acts with others
9-2.13(d)	9-2.13(d)4	.052	making sexual proposals or threats to another
9-2.13(d)	9-2.13(c)7	*.054	refusal to register as a sex offender or any refusal to register as required by law
9-2.13(d)	9-2.13(d)6	.103	wearing a disguise or mask

9-2.13(d)	9-2.13(c)9	*.150	tampering with fire alarms, fire equipment or fire suppressant equipment
9-2.13(d)	9-2.13(e)1	.152	destroying, altering, or damaging government property, or the property of another person
9-2.13(d)	9-2.13(c)10	*.153	stealing (theft)
9-2.13(d)	9-2.13(d)7	.204A	use by an inmate who is assigned to a Residential Community Program of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
9-2.13(d)	9-2.13(c)16	*.205	misuse of authorized medication
9-2.13(d)	9-2.13(e)2	.206	possession of money or currency (\$50.00 or less) unless specifically authorized
9-2.13(d)	9-2.13(c)17	*.207	possession of money or currency (in excess of \$50.00) unless specifically authorized
9-2.13(d)	9-2.13(f)1	.208	possession of property belonging to another person
9-2.13(d)	9-2.13(e)3	.210	possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels
9-2.13(d)	9-2.13(e)5	*.211	possessing any staff member's clothing and/or equipment

9-2.13(d)	9-2.13(d)9	.254	refusing to work, or to accept a program or housing unit assignment
9-2.13(d)	9-2.13(e)4	.256	refusing to obey an order of any staff member
9-2.13(d)	9-2.13(f)4	.257	violating a condition of any Residential Community Program or Residential Community Release Program
9-2.13(d)	9-2.13(b)27	*.260	refusing to submit to mandatory medical or other testing such as, but not limited to, mandatory testing required by law or court order
9-2.13(d)	9-2.13(f)5	.301	unexcused absence from work or any assignment being late for work
9-2.13(d)	9-2.13(f)8	.304	using abusive or obscene language to a staff member
9-2.13(d)	9-2.13(e)5	.305	lying, providing a false statement to a staff member
9-2.13(d)	9-2.13(d)10	.351	counterfeiting, forging, or unauthorized reproduction or use of any document not enumerated in prohibited act *.352
9-2.13(d)	9-2.13(b)13	.360	unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family or pertaining to DOC staff or other law enforcement staff or the family of said staff

9-2.13(d)	9-2.13(d)11	.401	participating in an unauthorized meeting or gathering
9-2.13(d)	9-2.13(d)12	.402	being in an unauthorized area
9-2.13(d)	9-2.13(f)9	.451	failure to follow safety or sanitation regulations
9-2.13(d)	9-2.13(f)10	.452	using any equipment or machinery which is not specifically authorized
9-2.13(d)	9-2.13(f)11	.453	using any equipment or machinery contrary to instructions or posted safety standards
9-2.13(d)	9-2.13(d)13	.501	failure to stand count
9-2.13(d)	9-2.13(c)30	*.502	interfering with the taking of count
9-2.13(d)	9-2.13(d)14	.552A	being intoxicated while the inmate is assigned to a Residential Community Program
9-2.13(d)	9-2.13(d)15	.601	gambling
9-2.13(d)	9-2.13(d)16	.602	preparing or conducting a gambling pool
9-2.13(d)	9-2.13(d)17	.603	possession of gambling paraphernalia
9-2.13(d)	9-2.13(f)13	.701	unauthorized use of mail or telephone
9-2.13(d)	9-2.13(d)18	.702	unauthorized contacts with the public
9-2.13(d)	9-2.13(f)14	.703	correspondence or conduct with a visitor in violation of regulations
9-2.13(d)	9-2.13(d)19	.705	commencing or operating a business or group for profit or commencing or operating a non-profit enterprise without the approval of the

			Administrator
9-2.13(d)	9-2.13(d)20	.706	soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator
9-2.13(d)	9-2.13(f)15	.707	failure to keep a scheduled appointment with medical, dental or other professional staff
9-2.13(d)	9-2.13(e)9	.709	failure to comply with a written rule or regulation of the correctional facility
9-2.13(d)	9-2.13(d)22	.753	purchasing anything on credit or
9-2.13(d)	9-2.13(d)23	.754	giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose.
9-2.13(e)	9-2.13(c)8	*.008	abuse/cruelty to animals
9-2.13(e)	9-2.13(d)5	.053	indecent exposure
9-2.13(e)	9-2.13(f)2	.209	loaning of property or anything of value
9-2.13(e)	9-2.13(d)8	.212	possessing unauthorized clothing
9-2.13(e)	9-2.13(f)3	.213	mutilating or altering clothing issued by the government

9-2.13(e)	9-2.13(f)6	.302	malingering, feigning an illness
9-2.13(e)	9-2.13(f)7	.303	failing to perform work as instructed by a staff member
9-2.13(e)	9-2.13(e)6	.553	smoking where prohibited
9-2.13(e)	9-2.13(e)7	.554	possession of tobacco products or matches where not permitted
9-2.13(e)	9-2.13(f)12	.651	being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards or
9-2.13(e)	deleted	.652	tattooing or self mutilation
New	9-2.13(e)8	.653	tattooing
9-2.13(f)	9-2.13(d)21	.752	giving money or anything of value to, or accepting money or anything of value from, another inmate

### **Additional Proposed Amendments**

In addition to the above mentioned overarching amendments stemming from elimination of detention as a sanction, several amendments are proposed as technical changes and for the purposes of clarification, ease of use, consistency in terminology, to reflect current Department titles and unit names and to include more commonly used nomenclature.

At recodified N.J.A.C. 10A:4-5.2(g)10, 9.17(d), and 10.1(c)5, the Department proposes to remove references to New Jersey State Prison in connection with “DRY” cells since it gives the impression that “DRY” cells are only available at New Jersey State Prison. “DRY” cell

capability exists in all facilities. In addition, the Department proposes to replace the phrase “prehearing lockup status” with “prehearing discipline.”

N.J.A.C. 10A:4-9.1(a) requires Form 259 to be prepared by a DOC staff member when a prohibited act is committed. Inmates housed at Residential Community Release Program (RCRP) are subject to the same disciplinary regulations as those housed in correctional facilities. The inability of RCRP staff to issue charges could result in a breakdown of the disciplinary process, therefore, the Department proposes an amendment to allow RCRP staff members and other contractors providing services to the inmate population to also prepare Form 259.

The Department proposes a technical change to a cross-reference at N.J.A.C. 10A:5-2.6(t)4.

A number of technical changes are proposed throughout N.J.A.C. 10A:5-3.2. The last sentence of subsection (b) is proposed to be separated as new subsection (c) for ease of understanding and readability. At recodified subsection (f), the Department proposes to add the words “or above” to demonstrate the importance of S.A.R.S.C. review meetings and to make clear that the highest ranking custody staff member available will participate in S.A.S.R.C. reviews prior to a Lieutenant attending. At recodified paragraph (k)5, the phrase “a medical condition or mental illness” is proposed to be changed to “a healthcare condition,” to reflect more commonly used nomenclature. In addition, the phrase “the inmate’s medical or mental decompensation” is proposed to be changed to “the inmate’s mental decompensation,” as this portion of the rule is primarily intended to address mental decompensation.

The Department proposes to delete N.J.A.C. 10A:5-7.1(b)3, as inmates exhibiting behaviors related to medical or psychiatric conditions are not housed in temporary close custody, but in specialized units in the infirmary and mental health units.



An amendment to N.J.A.C. 10A:9-4.8(d) is proposed to broaden the eligibility for consideration for gang minimum custody status from inmates serving a sentence for one conviction of arson to also include inmates convicted of criminal mischief involving arson under specifically defined circumstances.

The Department proposes to amend its rules for inmate assignment to minimum units regarding an exception for Jones Farm and Rahway Camp at N.J.A.C. 10A:9-4.9 that was removed upon readoption of Chapter 9 on May 18, 2015. The exception is proposed for reinstatement in the section heading. Assignment of inmates to Jones Farm and Camp Rahway is covered under separate agreements with the local communities.

As the Department of Corrections (Department) 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 amendments to eliminate detention as a sanction result from the opinion that inmate segregation, under certain circumstances can exacerbate mental health deterioration. The elimination of detention as a sanction in and of itself is expected to have an overall positive impact on inmates, their families, and inmate rehabilitation. A review of the effectiveness of the inmate disciplinary process and a commitment to judiciously expedite the reintegration of inmates to the general population led to rebalancing of the severity of offense scale and the schedule of sanctions for all prohibited acts as proposed amendments. The proposed amendments are designed to decrease segregation, yet maintain order and security in DOC facilities. Although there may be individuals who oppose certain amendments, the Department

is taking a proactive approach, along with prudent and appropriate steps to maintain the safety of the public, staff, inmates, and volunteers and to sanction all inmates in proportion to the violations of prohibited acts.

### **Economic Impact**

Putting in place a disciplinary system that limits the possibility of inmate exposure to isolation and fosters expedited return of inmates to the general population, while maintaining order and discipline will lead to more frequent transfers of inmates to and from administrative segregation units. As a result, the Department anticipates increased transportation and security demands along with an increase in staffing. It is assumed that the existing fleet will be sufficient but increased staffing will likely be required to maintain appropriate levels of security when escort inmates. Initial estimates indicate approximately six additional Senior Corrections Officers may be required. It is expected that the cost of meeting and maintaining the requirements of the proposed amendments cannot met by the Department with the established budget and that additional funding will likely be necessary.

### **Federal Standards Statement**

The proposed amendments 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. The proposed amendments and repeals are not subject to any Federal statutes, requirements or standards; therefore, a Federal standards analysis is not required.

### **Jobs Impact**

Putting in place a disciplinary system that limits the possibility of inmate exposure to isolation and fosters expedited return of inmates to the general population, while maintaining order and discipline will lead to more frequent transfers of inmates to and from administrative

segregation units. As a result, the Department anticipates increased transportation and security demands along with an increase in staffing. Initial estimates indicate approximately six additional Senior Corrections Officers may be required to meet and maintain the requirements of the proposed amendments.

### **Agriculture Industry Impact**

The proposed amendments shall have no impact on the agriculture industry.

### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed 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 proposed amendments and repeals affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

### **Housing Affordability Impact Analysis**

The proposed amendments shall have no impact on the affordability of housing and there is an extreme unlikelihood that the rules would evoke a change in the average cost associated with housing in New Jersey. The proposed amendments concerning restrictive housing affects inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

### **Smart Growth Development Impact Analysis**

The proposed amendments shall have no impact on smart growth development because the proposed amendments and repeals do 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 proposed amendments concerning restrictive housing 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 repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10A:4-5.3, 6, 9.22, and 10.2.

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

## CHAPTER 1

### ADMINISTRATION, ORGANIZATION, AND MANAGEMENT

#### SUBCHAPTER 1. OPERATION, PROCEDURES, AND RULEMAKING ACTIVITY OF THE DEPARTMENT OF CORRECTIONS

##### 10A:1-1.1 Functions of the agency

(a) The Department of Corrections (DOC), created by statute in 1976, is a principal Department in the Executive Branch of New Jersey State Government (see N.J.S.A. 30:1B-2). The functions of the DOC are to:

1. (No change.)
2. Supervise and assist in the treatment and training of persons in local correctional [and detention] facilities, so that such persons may be prepared for release and reintegration into the community;
- 3.-7. (No change.)

#### SUBCHAPTER 2. GENERAL PROVISIONS

##### 10A:1-2.2 Definitions

The following words and terms, when used in N.J.A.C. 10A:1 through 10A:30, shall have the following meanings unless the context clearly indicates otherwise:

"Administrative segregation" means removal of an inmate from the general population of a correctional facility to a close custody unit because of one or more disciplinary infractions [or other administrative considerations].

...

"Asterisk offense" means a prohibited act preceded by a number and an asterisk that is considered the most serious and results in the most severe sanction(s). **Asterisk offenses are in Categories A and B.**

...

["Disciplinary detention" shall mean removal of an inmate from the general population to a short-term close custody unit because of a disciplinary infraction(s).]

...

"Non-asterisk offense" means a prohibited act that is considered less serious and results in a less severe sanction(s). **Non-asterisk offenses are in Category C, Category D, and Category E.**

...

["Prehearing detention" means removal of an inmate from the general population pending an investigation and a hearing into an alleged violation of a prohibited act.]

**"Prehearing disciplinary housing" means removal of an inmate from the general population or any other housing unit of a correctional facility to a short-term close custody unit, pending an investigation and a hearing into an alleged violation of a prohibited act.**

...

## CHAPTER 3

### SECURITY AND CONTROL

#### SUBCHAPTER 2. KEEP SEPARATE STATUS

##### 10A:3-2.3 Procedures for tracking transfers of inmates in keep separate status

(a) The Director, Division of Operations or designee [or the Special Classification Committee (S.C.C.)] shall authorize the transfer of an inmate in keep separate status to another correctional facility, when such transfer is determined to be warranted and appropriate. Emergency transfer procedures shall be followed in accordance with N.J.A.C. 10A:9-3.13 or 7.5.

(b)-(d) (No change.)

## CHAPTER 4

### INMATE DISCIPLINE

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10A:4-1.3 Definitions

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

...

["Major violations" shall mean the violation of a prohibited act that is preceded by an asterisk.

"Minor violations" shall mean the violation of a prohibited act that is not preceded by an asterisk.]

...

["Special Classification Committee" (S.C.C.) shall mean the body composed of representatives from the Prison and Youth Complexes within the Division of Operations, which considers the transfer of inmates between complexes.]

...

#### 10A:4-1.4 Forms

(a) (No change.)

(b) The following forms related to Inmate Discipline are available by accessing the Department of Corrections **internal** computer network [(DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms by contacting the Administrative Rules Unit, New Jersey Department of Corrections]:

[1. 251-I Chronic Violator Notice;

2. 251-II Chronic Violator Adjudication Notice;]

[3.] **1.** (No change in text.)

[4.] **2.** 255-I Authorization for Prehearing [Detention] **Disciplinary Housing;**

Recodify existing 5.-6. as **3.-4.** (No change in text.)

(c) (No change.)

### SUBCHAPTER 4. INMATE PROHIBITED ACTS

#### 10A:4-4.1 Prohibited acts

(a) An inmate who commits one or more of the following numbered prohibited acts shall be subject to disciplinary action and a sanction that is imposed by a Disciplinary Hearing Officer or Adjustment Committee with the exception of those violations disposed of by way of an on-the-

spot correction. Prohibited acts preceded by an asterisk (\*) are considered the most serious and result in the most severe sanctions (see N.J.A.C. 10A:4-5, Schedule of [sanctions for prohibited acts] **Sanctions for Prohibited Acts**). **Prohibited acts are further subclassified into five categories of severity (Category A through E) with Category A being the most severe and Category E the least severe. These categories correspond to the categories of sanctions at N.J.A.C. 10A:4-5 and the categories in the severity of offense scale at N.J.A.C. 10A:9-1.13.**

[\* .001 killing

\* .002 assaulting any person

\* .003 assaulting any person with a weapon

\* .004 fighting with another person

\* .005 threatening another with bodily harm or with any offense  
against his or her person or his or her property

\* .006 extortion, blackmail, protection: demanding or receiving  
favors, money or anything of value in return for protection  
against others, to avoid bodily harm, or under threat of  
informing

\* .007 hostage taking

\* .008 abuse/cruelty to animals

\* .009 misuse, possession, distribution, sale, or intent to  
distribute or sell, an electronic communication device,  
equipment or peripheral that is capable of transmitting,



receiving or storing data and/or electronically transmitting a message, image or data that is not authorized for use or retention (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2)

.009A misuse, possession, distribution, sale or intent to distribute or sell, an electronic communication device, equipment or peripheral that is capable of transmitting, receiving or storing data and/or electronically transmitting a message, image or data that is not authorized for use or retention by an inmate who is assigned to a Residential Community Release Program (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2).

\* .010 participating in an activity(ies) related to a security threat group

\* .011 possession or exhibition of anything related to a security threat group

\* .012 throwing bodily fluid at any person or otherwise purposely subjecting such person to contact with a bodily fluid

.013 unauthorized physical contact with any person, such as, but not limited to, physical contact not initiated by a

staff member, volunteer or visitor

- \* .014 unauthorized physical contact with any person with an article, item or material such as anything readily capable of inflicting bodily injury
- \* .050 sexual assault
  - .051 engaging in sexual acts with others
  - .052 making sexual proposals or threats to another
  - .053 indecent exposure
- \* .054 refusal to register as a sex offender or any refusal to register as required by law
- \* .101 escape
- \* .102 attempting or planning escape
  - .103 wearing a disguise or mask
- \* .150 tampering with fire alarms, fire equipment or fire suppressant equipment
- \* .151 setting a fire
  - .152 destroying, altering, or damaging government property, or the property of another person
- \* .153 stealing (theft)
- \* .154 tampering with or blocking any locking device
- \* .155 adulteration of any food or drink

- \* .201 possession or introduction of an explosive, incendiary device or any ammunition
- \* .202 possession or introduction of a weapon, such as, but not limited to, a sharpened instrument, knife or unauthorized tool
- \* .203 possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
- \* .204 use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
- .204A use by an inmate who is assigned to a Residential Community Program of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff
- \* .205 misuse of authorized medication
- .206 possession of money or currency (\$ 50.00 or less) unless specifically authorized
- \* .207 possession of money or currency (in excess of \$ 50.00) unless specifically authorized
- .208 possession of property belonging to another person

- .209 loaning of property or anything of value
- .210 possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels
- \*.211 possessing any staff member's clothing and/or equipment
- .212 possessing unauthorized clothing
- .213 mutilating or altering clothing issued by the government
- \* .214 possession of unauthorized keys or other security equipment
- \* .215 possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia
- \* .216 distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia
- \* .251 rioting
- \* .252 encouraging others to riot
- \* .253 engaging in, or encouraging, a group demonstration
- .254 refusing to work, or to accept a program or housing unit assignment
- \* .255 encouraging others to refuse to work or to participate in work stoppage
- .256 refusing to obey an order of any staff member
- .257 violating a condition of any community release program
- \* .258 refusing to submit to testing for prohibited substances
- \* .259 failure to comply with an order to submit a specimen for prohibited substance testing

(see N.J.A.C. 10A:3-5)

- \* .260 refusing to submit to mandatory medical or other testing such as, but not limited to, mandatory testing required by law or court order
- \* .261 tampering with a test specimen
- .301 unexcused absence from work or any assignment; being late for work
- .302 malingering, feigning an illness
- .303 failing to perform work as instructed by a staff member
- .304 using abusive or obscene language to a staff member
- .305 lying, providing a false statement to a staff member
- \* .306 conduct which disrupts or interferes with the security or orderly running of the correctional facility
- .351 counterfeiting, forging or unauthorized reproduction or use of any document not enumerated in prohibited act \*.352
- \* .352 counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document
- \* .360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family
- .401 participating in an unauthorized meeting or gathering
- .402 being in an unauthorized area
- .451 failure to follow safety or sanitation regulations

- .452 using any equipment or machinery which is not specifically authorized
- .453 using any equipment or machinery contrary to instructions or posted safety standards
- .501 failing to stand count
- \*.502 interfering with the taking of count
- \* .551 making intoxicants, alcoholic beverages or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia
- \* .552 being intoxicated
  - .552A being intoxicated while the inmate is assigned to a Residential Community Program
- .553 smoking where prohibited
- .554 possession of tobacco products or matches where not permitted
- .601 gambling
- .602 preparing or conducting a gambling pool
- .603 possession of gambling paraphernalia
- .651 being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards
- .652 tattooing or self-mutilation
- .701 unauthorized use of mail or telephone
- .702 unauthorized contacts with the public
- .703 correspondence or conduct with a visitor in violation of regulations
- \* .704 perpetrating frauds, deceptions, confidence games, riots or escape plots
- .705 commencing or operating a business or group for profit or commencing or operating a

- nonprofit enterprise without the approval of the Administrator
- .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator.
  - .707 failure to keep a scheduled appointment with medical, dental or other professional staff
  - \* .708 refusal to submit to a search
  - .709 failure to comply with a written rule or regulation of the correctional facility
  - \* .751 giving or offering any official or staff member a bribe or anything of value
  - .752 giving money or anything of value to, or accepting money or anything of value from, another inmate
  - .753 purchasing anything on credit
  - .754 giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose
  - .802 attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself
  - \* .803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself.]

**1. Category A: A finding of guilt for any offense in Category A shall result in a sanction of no less than 181 days and no more than 365 days of administrative segregation per incident and one or more of the sanctions listed at N.J.A.C. 10A:4-5.1(e), unless a medical or mental health professional determines that the inmate is not appropriate for administrative segregation placement. Where a medical or mental health professional has made such a determination, the inmate shall receive one or more of the sanctions listed at N.J.A.C. 10A:4-5.1(e).**

**i. \*.001 killing**

**ii. \*.002 assaulting any person**

**iii. \*.003 assaulting any person with a weapon**

**iv. \*.007 hostage taking**

**v. \*.009 misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device, equipment, or peripheral that is capable of transmitting, receiving, or storing data and/or electronically transmitting a message, image, or data that is not authorized for use or retention (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2)**

**vi. \*.012 throwing bodily fluid at any person or otherwise**

**vii. \*.050 sexual assault**

**viii. \*.101 escape**

**ix. \*.151 setting a fire**

**x. \*.202 possession or introduction of a weapon, such as, but not limited to, a sharpened instrument, knife, or unauthorized tool**



- xi. \*.251 rioting**
- xii. \*.252 encouraging others to riot**
- xiii. \*.360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family or pertaining to DOC staff or other law enforcement staff or the family of said staff**
- xiv. \*.803 attempting to commit, aiding another person to commit or making plans to commit any Category A and or B offense**

**2. Category B: A finding of guilt for any offense in Category B shall result in a sanction of no less than 91 days and no more than 180 days of administrative segregation per incident and one or more of the sanctions listed at N.J.A.C. 10A:4-5.1(g), unless a medical or mental health professional determines that the inmate is not appropriate for administrative segregation placement. Where a medical or mental health professional has made such a determination, the inmate shall receive one or more of the sanctions listed at N.J.A.C. 10A:4-5.1(f).**

- i. \*.004 fighting with another person**
- ii. \*.005 threatening another with bodily harm or with any offense against his or her person or his or her property**
- iii. \*.006 extortion, blackmail, protection: demanding or receiving favors, money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing**
- iv. \*.008 abuse/cruelty to animals**
- v. \*.010 participating in an activity(ies) related to a security threat group**

- vi. \*.011 possession or exhibition of anything related to a security threat group**
- vii. \*.014 unauthorized physical contact with any person with an article, item, or material such as anything readily capable of inflicting bodily injury**
- viii. \*.054 refusal to register as a sex offender or any refusal to register as required by law**
- ix. \*.102 attempting or planning escape**
- x. \*.150 tampering with fire alarms, fire equipment, or fire suppressant equipment**
- xi. \*.153 stealing (theft)**
- xii. \*.154 tampering with or blocking any locking device**
- xiii. \*.155 adulteration of any food or drink**
- xiv. \*.201 possession or introduction of an explosive, incendiary device, or any ammunition**
- xv. \*.203 possession or introduction of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff**
- xvi. \*.204 use of any prohibited substances such as drugs, intoxicants, or related paraphernalia not prescribed for the inmate by the medical or dental staff**
- xvii. \*.205 misuse of authorized medication**
- xviii. \*.207 possession of money or currency (in excess of \$50.00) unless specifically authorized**
- xix. \*.211 possessing any staff member's clothing and/or equipment**

- xx. \*214 possession of unauthorized keys or other security equipment**
- xxi. \*.215 possession with intent to distribute or sell prohibited substances such as drugs, intoxicants, or related paraphernalia**
- xxii. \*.216 distribution or sale of prohibited substances such as drugs, intoxicants, or related paraphernalia**
- xxiii. \*.253 engaging in, or encouraging, a group demonstration**
- xxiv. \*.255 encouraging others to refuse to work or to participate in work stoppage**
- xxv. \*.258 refusing to submit to testing for prohibited substances**
- xxvi. \*.259 failure to comply with an order to submit a specimen for prohibited substance testing (see N.J.A.C. 10A:3-5)**
- xxvii. \*.260 refusing to submit to mandatory medical or other testing such as, but not limited to, mandatory testing required by law or court order**
- xxviii. \*.261 tampering with a test specimen**
- xxix. \*.306 conduct which disrupts or interferes with the security or orderly running of the correctional facility**
- xxx. \*.352 counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money, or any other official document**
- xxxi. \*.502 interfering with the taking of count**
- xxxii. \*.551 making intoxicants, alcoholic beverages, or prohibited substances such as narcotics and controlled dangerous substances or making related paraphernalia**

xxxiii. \*.552 being intoxicated

xxxiv. \*.704 perpetrating frauds, deceptions, confidence games, riots, or escape plots

xxxv. \*.708 refusal to submit to a search

xxxvi. \*.751 giving or offering any official or staff member a bribe or anything of value

xxxvii. \*.803 attempting to commit, aiding another person to commit or making plans to commit any Category A and/or B offense

**3. Category C: A finding of guilt for any offense in Category C can result in a sanction of no less than 31 days and no more than 90 days of administrative segregation in addition to one or more of the sanctions listed at N.J.A.C. 10A:4-5.1(j).**

i. .009A misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device, equipment, or peripheral that is capable of transmitting, receiving or storing data and/or electronically transmitting a message, image, or data that is not authorized for use or detention by an inmate who is assigned to a Residential Community Release Program (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2).

ii. .013 unauthorized physical contact with any person, such as, but not limited to, physical contact not initiated by a staff member, volunteer, or visitor

iii. .051 engaging in sexual acts with others

iv. .052 making sexual proposals or threats to another

v. .053 indecent exposure

vi. .103 wearing a disguise or mask

vii. .204A use by an inmate who is assigned to a Residential Community Program of

**any prohibited substances such as drugs, intoxicants, or related paraphernalia not prescribed for the inmate by the medical or dental staff**

**viii. .212 possessing unauthorized clothing**

**ix. .254 refusing to work, or to accept a program or housing unit assignment**

**x. .351 counterfeiting, forging, or unauthorized reproduction or use of any document not enumerated in prohibited act \*.352**

**xi. .401 participating in an unauthorized meeting or gathering**

**xii. .402 being in an unauthorized area**

**xiii. .501 failing to stand count**

**xiv. .552A being intoxicated while the inmate is assigned to a Residential Community Program**

**xv. .601 gambling**

**xvi. .602 preparing or conducting a gambling pool**

**xvii. .603 possession of gambling paraphernalia**

**xviii. .702 unauthorized contacts with the public**

**xix. .705 commencing or operating a business or group for profit or commencing or operating a nonprofit enterprise without the approval of the Administrator**

**xx. .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator**

**xxi. .752 giving money or anything of value to, or accepting money or anything of value from, another inmate**

**xxii. .753 purchasing anything on credit**

**xxiii. .754 giving money or anything of value to, or accepting money**

**xxiv. .802 attempting to commit, aiding another person to commit or making plans to commit any Category C, D, and or E offense**

**4. Category D: A finding of guilt for any offense in Category D can result in a sanction of either zero or 30 days of administrative segregation in addition to one or more of the sanctions listed at N.J.A.C. 10A:4-5.1(l).**

**i. .152 destroying, altering, or damaging government property, or the property of another person**

**ii. .206 possession of money or currency (\$50.00 or less) unless specifically authorized**

**iii. .210 possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels**

**iv. .256 refusing to obey an order of any staff member**

**v. .305 lying, providing a false statement to a staff member**

**vi. .553 smoking where prohibited**

**vii. .554 possession of tobacco products or matches where not permitted**

**viii. .653 tattooing**

**ix. .709 failure to comply with a written rule or regulation of the correctional facility**

**x. .802 attempting to commit, aiding another person to commit or making plans to commit any Category C, D, and or E offense**

**5. Category E: A finding of guilt for any offense in Category E shall result in a sanction of one or more of the sanctions listed at N.J.A.C. 10A:4-5.1(n). Administrative segregation does not apply to Category E.**

- i. .208 possession of property belonging to another person**
- ii. .209 loaning of property or anything of value**
- iii. .213 mutilating or altering clothing issued by the government**
- iv. .257 violating a condition of any Residential Community Program and or Residential Community Release Program**
- v. .301 unexcused absence from work or any assignment; being late for work**
- vi. .302 malingering, feigning an illness**
- vii. .303 failing to perform work as instructed by a staff member**
- viii. .304 using abusive or obscene language to a staff member**
- ix. .451 failure to follow safety or sanitation regulations**
- x. .452 using any equipment or machinery which is not specifically authorized**
- xi. .453 using any equipment or machinery contrary to instructions or posted safety standards**
- xii. .651 being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards**
- xiii. .701 unauthorized use of mail or telephone**
- xiv. .703 correspondence or conduct with a visitor in violation of regulations**
- xv. .707 failure to keep a scheduled appointment with medical, dental or other**

professional staff

xvi. **.802 attempting to commit, aiding another person to commit or making plans to commit any Category C, D, and or E offense**

#### SUBCHAPTER 5.SCHEDULE OF SANCTIONS FOR PROHIBITED ACTS

10A:4-5.1 Schedule of sanctions for prohibited acts committed at the Prison Complex

- (a) The maximum administrative segregation sanction for any prohibited act or acts resulting from a single incident shall not exceed 365 days.**
- (b) The highest level offense in a single incident shall govern the sanctions imposed.**
- (c) Administrative segregation sanctions for all charges received as the result of a single incident shall be served concurrently.**
- (d) Repeat occurrences of a specific infraction(s), in separate incidents, may be considered for sanctioning in the next highest category of the current offense at the discretion of the Disciplinary Hearing Officer.**

[(a)] **(e) A finding of guilt for any offense [preceded by an asterisk (\*) shall render the offender subject to] in Category A shall result in a sanction of no less than 181 days and no more than 365 days of administrative segregation per incident and one or more of the following sanctions unless a medical or mental health professional determines that the inmate is not appropriate for administrative segregation placement. Where a medical or mental health professional has made such determination, the inmate shall receive one or more of the following sanctions:**

[1. Up to 15 calendar days of Disciplinary Detention;]

[2.] **1.** (No change in text.)



[3. Administrative Segregation for a specified time not to exceed one year, subject to confirmation by the Institutional Classification Committee;]

Recodify existing 4.-7. as **2.-5.** (No change in text.)

[8.] **6.** Confiscation; **and/or**

[9.] **7.** Up to 14 hours extra duty, to be performed within a maximum of two weeks[; 10. Suspension of any].

**(f) In addition to imposing one or more of the sanctions in Category A, the Disciplinary Hearing Officer may refer an inmate to the Mental Health Unit for appropriate care/treatment as may be necessary and appropriate. The Administrator or designee may suspend one or more of the [above] sanctions [at the discretion of the Disciplinary Hearing Officer or Adjustment Committee] in Category A for 60 calendar days[; and/or].**

[11. Referral to the Mental Health Unit for appropriate care/treatment.]

[(b)] **(g) A finding of guilt [in the case of all other offenses shall render the offender subject to] for any offense in Category B shall result in a sanction of no less than 91 days and no more than 180 days of administrative segregation per incident and one or more of the following sanctions unless a medical or mental health professional determines that the inmate is not appropriate for administrative segregation placement. Where a medical or mental health professional has made such determination, the inmate shall receive one or more of the following sanctions:**

[1. Up to 15 calendar days of Disciplinary Detention;]

[2.] **1.** (No change in text.)

[3.] **2.** [Up] **Loss of commutation time up to [60] 365** calendar days [loss of commutation time], subject to confirmation by the Administrator;

[4. Administrative Segregation for a specified time not to exceed 90 calendar days subject to confirmation by the Institutional Classification Committee;]

Recodify existing 5.–7. as **3.–5.** ( No change in text.)

[8.] **6.** Confiscation; **and/or**

[9.] **7.** Up to 14 hours extra duty, to be performed within a maximum of two weeks[;].

[10. Suspension of any]

**(h) In addition to imposing one or more of the sanctions in Category B, the Disciplinary Hearing Officer may refer an inmate to the Mental Health Unit for appropriate care/treatment as may be necessary and appropriate. The Administrator or designee may suspend one or more of the [above] sanctions in Category B [at the discretion of the Disciplinary Hearing Officer or Adjustment Committee] for 60 calendar days[; and/or].**

[11. Referral to the Mental Health Unit for appropriate care/treatment.]

**(i) A finding of guilt any offense in Category C can render the offender subject to 31 through 90 days of administrative segregation and one or more of the following sanctions:**

- 1. Loss of one or more correctional facility privileges up to 30 calendar days;**
- 2. Loss of commutation time up to 60 calendar days, subject to confirmation by the Administrator;**
- 3. Loss of furlough privileges for up to two months;**
- 4. Up to two weeks confinement to room or housing area;**
- 5. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);**
- 6. Confiscation; and/or**
- 7. Up to 14 hours extra duty, to be performed within a maximum of two weeks;**

**(j) In addition to imposing one or more of the sanctions in Category C, the Disciplinary Hearing Officer may refer an inmate to the Mental Health Unit for appropriate care/treatment as may be necessary and appropriate. The Disciplinary Hearing Officer or Adjustment Committee may suspend one or more of the above sanctions in Category C for 60 calendar days.**

**(k) A finding of guilt any offense in Category D shall render the offender subject to 0 or 30 days of Administrative Segregation and one or more of the following sanctions:**

- 1. Loss of one or more correctional facility privileges up to 30 calendar days;**
- 2. Loss of commutation time up to 60 calendar days, subject to confirmation by the Administrator;**
- 3. Loss of furlough privileges for up to two months;**
- 4. Up to two weeks confinement to room or housing area;**
- 5. Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);**
- 6. Confiscation; and/or**
- 7. Up to 10 hours extra duty, to be performed within a maximum of two weeks.**

**(l) In addition to imposing one or more of the sanctions in Category D, the Disciplinary Hearing Officer may refer an inmate to the Mental Health Unit for appropriate care/treatment as may be necessary and appropriate. The Disciplinary Hearing Officer or Adjustment Committee may suspend one or more of the sanctions in Category D for 60 calendar days.**

**(m) A finding of guilt any offense in Category E shall render the offender subject to any one or more of the following sanctions:**

- 1. Loss of one or more correctional facility privileges up to 30 calendar days;**

2. **Loss of commutation time up to 60 calendar days, subject to confirmation by the Administrator;**
3. **Loss of furlough privileges for up to two months;**
4. **Up to two weeks confinement to room or housing area;**
5. **Any sanction prescribed for On-The-Spot Correction (see N.J.A.C. 10A:4-7);**
6. **Confiscation; and/or**
7. **Up to four hours extra duty, to be performed within a maximum of two weeks.**

(n) **In addition to imposing one or more of the above sanctions, in Category E, the Disciplinary Hearing Officer may refer an inmate to the Mental Health Unit for appropriate care/treatment as may be necessary and appropriate. The Disciplinary Hearing Officer or Adjustment Committee may suspend one or more of the above sanctions in Category E for 60 calendar days.**

Recodify existing (c) - (f) as (o) - (r) (No change in text.)

[(g)] (s) **In addition to the sanctions in this section, administrative action may be taken when approved by the Institutional Classification Committee upon the recommendation of the Disciplinary Hearing Officer/Adjustment Committee or the Administrator or designee. Such administrative action may include, but not be limited to, the following:**

1.-9. (No change.)

10. [For New Jersey State Prison only: placing] **Placing** in a "DRY" cell during prehearing [and lockup status] **discipline.**

**10A:4-5.3 (Reserved)**

## SUBCHAPTER 6. (RESERVED)

### SUBCHAPTER 7. ON-THE-SPOT CORRECTION

#### 10A:4-7.2 Conference/appeal

(a) – (c) (No change.)

(d) At the conclusion of the conference, the inmate shall receive a completed copy of Form 253-I On-The-Spot Disciplinary Report/Adjudication. Should the inmate be found guilty, the remaining copy of Form 253-I shall be submitted to the [Director of Custody Operations] **Correction Major** who shall determine where Form 253-I shall be maintained.

(e) (No change.)

### SUBCHAPTER 9. DISCIPLINARY PROCEDURES

#### 10A:4-9.1 Disciplinary report

(a) When a violation of a prohibited act as identified in N.J.A.C. 10A:4-4, Inmate Prohibited Acts, has occurred, the **DOC** staff member **or the staff of a contracted vendor** who witnessed it or who has probable cause to believe that a prohibited act has occurred shall prepare Form 259 Disciplinary Report and forward it to the appropriate correctional supervisor.

(b) (No change.)

#### 10A:4-9.7 Review of postponed cases

(a) Hearings [which] **that** have been postponed for further investigation shall be reviewed by the Disciplinary Hearing Officer or Adjustment Committee to determine if an additional postponement is warranted:

1. Within 48 hours of the postponement, if the inmate is in Prehearing [Detention]

**Disciplinary Housing;** or

2. (No change.)

(b) (No change.)

10A:4-9.8 Scheduling hearing

(a) – (b) (No change.)

(c) Inmates confined in Prehearing [Detention] **Disciplinary Housing** shall receive a hearing within three calendar days of their placement in Prehearing [Detention] **Disciplinary Housing**, including weekends and holidays, unless there are exceptional circumstances, unavoidable delays, or reasonable postponements. Should the third day fall on a Saturday, Sunday, or holiday, the hearing shall be held on the business day immediately following the weekend or holiday.

(d) Inmates confined in Prehearing [Detention] **Disciplinary Housing** shall be given priority in scheduling their appearance before the Disciplinary Hearing Officer or Adjustment Committee.

(e) (No change.)

10A:4-9.17 Disciplinary sanctions

(a) – (c) (No change.)

(d) Whenever an inmate damages or destroys plumbing fixtures, or floods his or her cell [at New Jersey State Prison], the inmate may be placed in [Prehearing Detention or] Disciplinary [Detention] **Housing** in a "DRY" cell [to serve the sanction imposed].

10A:4-9.18 Suspending sanctions

(a) The Adjustment Committee or Disciplinary Hearing Officer may suspend a sanction(s) imposed upon an inmate for a violation of a prohibited act **in Category C, D, and E** when, in their opinion, such action is warranted by the particular circumstances of the case **for 60 calendar days.**

**(b) The Administrator or designee may suspend a sanction(s) imposed upon an inmate for a violation of a prohibited act in all Categories (A through E) when, in his or her opinion such action is warranted by the particular circumstances of the case for 60 calendar days.**

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

10A:4-9.21 Emergency transfer to another correctional facility or unit

(a) When it shall appear that an inmate has committed a disciplinary infraction that requires the inmate's immediate transfer to the general population of another correctional facility or unit, or the Prehearing [Detention] **Disciplinary Housing** Unit of another correctional facility or unit, the notice and disciplinary hearing shall be granted after the transfer.

(b) – (f) (No change.)

**(g) Transfers of adjudicated delinquents 18 years of age or older from the Juvenile Justice Commission to the Department of Corrections shall be handled in accordance with N.J.A.C. 13:91-2.**

**10A:4-9.22 (Reserved)**

SUBCHAPTER 10. DETENTION PROGRAM

10A:4-10.1 Confinement in Prehearing [Detention] **Disciplinary Housing**

(a) An inmate may be placed in Prehearing [Detention] **Disciplinary Housing** in those instances where it appears necessary to remove or isolate the inmate from the general population until an investigation into the inmate's alleged misconduct can be completed and a disciplinary hearing can be held pursuant to N.J.A.C. 10A:4-9, Disciplinary Procedures. Confinement in Prehearing [Detention] **Disciplinary Housing** shall be deemed necessary only where it appears that, if the inmate remained in his or her existing housing unit, the inmate would constitute a threat to other inmates, staff members, the inmate, or to the safe, secure, and orderly operations of the correctional facility.

(b) Confinement in Prehearing [Detention] **Disciplinary Housing** may consist of placement in the [Detention] **Close Custody** Unit or confinement to the inmate's room or housing unit.

(c) Factors [which] **that** may be considered in determining whether confinement in Prehearing [Detention] **Disciplinary Housing** is warranted include:

1. – 4. (No change.)

5. The inmate has been charged with arson or serious destruction of property and, in the opinion of the correctional staff, there is a substantial likelihood that the inmate may engage in additional arson or destruction of property. (Whenever the destruction to property consists of flooding the cell or damaging plumbing fixtures, the inmate may be placed in Prehearing [Detention] **Disciplinary Housing** in a "DRY" cell[-New Jersey State Prison only]);

6. – 9. (No change.)

(d) If an inmate is confined in Prehearing [Detention] **Disciplinary Housing** as a result of any of the factors in (c) above, such confinement must be authorized, in writing, by the custody staff supervisor. Form 255-I, Authorization for Prehearing [Detention] **Disciplinary Housing**, shall be utilized when placing an inmate in Prehearing [Detention] **Disciplinary Housing**. A separate



Form 255-I must be completed for each inmate and, wherever possible, Form 255-I should be completed prior to placing the inmate in Prehearing [Detention] **Disciplinary Housing**. When an emergency exists [which] **that** precludes completion of Form 255-I prior to placement, Form 255-I shall be completed immediately following placement. After all appropriate parties have signed Form 255-I, it shall be placed in the inmate's folder. Additional copies of the completed Form 255-I may be kept on file, for recordkeeping purposes, in areas designated by the Administrator and [the Director of Custody Operations] **a Correction Major**.

(e) Where possible, an Administrator, Associate Administrator, Assistant Superintendent, or [Director of Custody Operations] **a Correction Major** shall review and approve or disapprove a request to place an inmate in Prehearing [Detention] **Disciplinary Housing**.

(f) Any time spent in Prehearing [Detention] **Disciplinary Housing** shall be credited to any subsequent [detention sentence] **administrative segregation sanction** imposed.

#### **10A:4-10.2 (Reserved)**

#### 10A:4-10.3 Separate facilities

(a) Facilities utilized to separate inmates from the general population shall be physically separate, so that materials allowed inmates in one section cannot be passed to inmates in [Disciplinary Detention] **Restrictive Housing**.

(b) An inmate may be confined to his or her room or housing unit to serve **a** [Disciplinary Detention] **disciplinary sanction** under appropriate circumstances, such as, but not limited to, whether the inmate is already confined in a close custody unit, overcrowding, or in emergent situations, such as, riots and fires. [All requirements of the Detention Program shall apply when

the inmate serves Disciplinary Detention separate from the general population or when Disciplinary Detention is served in the inmate's room or housing area.]

10A:4-10.4 Ventilation, heating, lighting, and sanitation in [Detention Program] **Prehearing Disciplinary Housing**

(a) - (c) (No change.)

10A:4-10.5 Visual observation

Inmates in **Prehearing** Disciplinary [Detention] **Housing** shall be observed regularly and frequently by custody staff. There shall be no physical obstruction to visual observation of inmates at any time. Full or partial curtains shall not be permitted over the cell door.

10A:4-10.6 Personal items

(a) All inmates shall be admitted to **Prehearing** Disciplinary [Detention] **Housing** dressed in basic issue correctional clothing after a thorough search for contraband, except that:

1.-2. (No change.)

(b) (No change.)

10A:4-10.8 Medical and psychiatric services

(a) Inmates in **Prehearing** Disciplinary [Detention] **Housing** shall receive a daily visit by a member of the health care provider staff, which can be a nurse, paramedic, doctor, or other authorized health care personnel.

(b)-(c) (No change.)

10A:4-10.10 Visits by social services and correctional supervisory staff

- (a) A member of the correctional facility social services staff shall visit the inmates in **Prehearing** Disciplinary [Detention] **Housing** daily to determine any emergencies or unusual needs of the inmates.
- (b) Inmates shall receive at least daily visits from the senior custody staff supervisor in charge of the **Prehearing** Disciplinary [Detention] **Housing** area.

10A:4-10.11 Chaplain services

Inmates confined in **Prehearing** Disciplinary [Detention] **Housing** shall not be denied pastoral services. The correctional facility chaplain shall visit this area to provide religious counseling or other pastoral services in response to an inmate's written request. An outside religious leader approved by the chaplain and Administrator to conduct religious activities may visit this area to provide religious counseling or other pastoral services in response to an inmate's written request.

10A:4-10.12 Food

- (a) **Prehearing** Disciplinary [Detention or Prehearing Detention] **Housing** inmates shall be served the normal correctional facility meals on the menu of the day or such special diet as shall be prescribed.
- (b) (No change.)

10A:4-10.13 Correspondence, visits, and telephone calls

(a) Inmates in **Prehearing** Disciplinary [Detention] **Housing** shall have the same opportunities to send and receive **non-electronic** written correspondence that are available to inmates in the general population (see N.J.A.C. 10A:18, Mail, Visits and Telephone).

(b) Inmates in **Prehearing** Disciplinary [Detention] **Housing** shall not be provided with visit or telephone opportunities while in **Prehearing** Disciplinary [Detention] **Housing**, except:

1. – 2. (No change.)

(c) In the event a **Prehearing** Disciplinary [Detention] **Housing** visit restriction that exceeds existing internal management visit procedures is deemed necessary by the Administrator or designee, efforts shall be made to provide such notification to expected visitors prior to the next regularly scheduled visit period. Inmates shall be responsible for such notification when time allows for correspondence.

10A:4-10.14 Grooming, showering, and shaving

Barbering and hair care services shall be provided in the **Prehearing** Disciplinary [Detention] **Housing** area, as needed. Each inmate shall be given the opportunity to shave and shower a minimum of two times a week, unless permitting these activities would present an undue security hazard.

10A:4-10.15 Reading material

Inmates in **Prehearing** Disciplinary [Detention] **Housing** shall be permitted to retain in their possession an amount of reading material that is consistent with the maintenance of security and the orderly operation of the Unit. Reading material containing disapproved content or material

not permitted in **Prehearing** Disciplinary [Detention] **Housing** is set forth in N.J.A.C. 10A:18, Mail, Visits and Telephone.

#### 10A:4-10.17 Records in **Prehearing** Disciplinary [Detention] **Housing**

(a) The following information regarding inmates confined in **Prehearing** Disciplinary [Detention] **Housing** status shall be available in the Unit for the use of the custody staff:

1. – 6. (No change.)
7. Disciplinary charge leading to **Prehearing** Disciplinary [Detention] **Housing**;
8. Expiration date of **Prehearing** Disciplinary [Detention] **Housing**; and
9. (No change.)

(b) (No change.)

#### 10A:4-10.18 Correctional facility internal management procedures and post orders

(a) (No change.)

(b) The written internal management procedures and post orders for [the Detention Program] **Prehearing Disciplinary Housing** shall be submitted to the Office of the Commissioner or designee for review and approval on or before January 31 of each year.

### SUBCHAPTER 11. APPEALS OF DISCIPLINARY DECISIONS

#### 10A:4-11.3 Suspension of sanctions pending appeal

(a) (No change.)

(b) A disciplinary sanction shall not be suspended pending appeal unless the inmate establishes by clear and convincing evidence that the inmate's release from **Prehearing** Disciplinary

[Detention] **Housing** will not jeopardize correctional facility safety, security, and order, that witnesses or victims will not be [intimated] **intimidated**, and that the inmate will not engage in any action that could otherwise interfere with the administration of justice.

(c) In those cases where the Administrator or designee grants the inmate's request for release from **Prehearing** Disciplinary [Detention] **Housing** pending appeal, the release shall not preclude the correctional facility from denying outside privileges; such as, but not limited to, furloughs for the inmate even though other disciplinary sanctions are suspended pending the outcome of the appeal.

#### 10A:4-11.7 Notification of inmate on appeal results

(a) In all cases, the inmate shall be notified in writing of the results of the review of the inmate's appeal and the reasons therefor.

1. If an inmate is being held in **Prehearing** Disciplinary [Detention] **Housing**, which resulted from disciplinary action, the written decision on the appeal shall be given to the inmate within 72 hours of receipt of the appeal, excluding weekends and holidays, in the absence of exceptional circumstances.

2. (No change.)

(b)-(c) (No change.)

## CHAPTER 5

### CLOSE CUSTODY UNITS

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10A:5-1.3 Definitions

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

...

["Disciplinary detention" means removal of an inmate from the general population or any other housing unit of a correctional facility to a short-term close custody unit because of a disciplinary infraction(s).]

...

**"Prehearing Disciplinary Housing" shall mean removal of an inmate from the general population or any other housing unit of a correctional facility to a short-term close custody unit because of a disciplinary infraction(s) pending an investigation and a hearing into an alleged violation of a prohibited act.**

...

"Temporary close custody" means the non-punitive removal of an inmate from the inmate general population, or other assigned housing, with restriction to the inmate's cell or to a close custody unit for a period not to exceed 72 hours, for special observation (**other than healthcare needs**) or investigation, **unless information or evidence warrants an extension beyond 72 hours and the extension is approved by the appropriate supervisor.**

## SUBCHAPTER 2. MANAGEMENT CONTROL UNIT (M.C.U.)

### 10A:5-2.6 Procedures for the Management Control Unit Review Committee (M.C.U.R.C.)

reviews

(a) - (s) (No change.)

(t) A record shall be maintained of the proceedings of the M.C.U.R.C. to include, but not be limited to:

1. - 3 (No change.)

4. A written indication of the alternatives considered in accordance with [(p)] (r) above;

and

5. (No change.)

(u)-(w) (No change.)

### SUBCHAPTER 3. ADMINISTRATIVE SEGREGATION

#### 10A:5-3.1 Admission to administrative segregation

(a) Whenever the Disciplinary Hearing Officer/Adjustment Committee imposes a sanction [which] **that** includes administrative segregation, the administrative segregation part of the sanction shall be referred by the Disciplinary Hearing Officer to the Institutional Classification Committee (I.C.C.) for review [at the Committee's next regularly scheduled meeting] **immediately**. [(b)] In considering the sanction, the I.C.C. shall consider any relevant factors including, but not limited to:

1. - 4 (No change.)

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

[(f)] (e) [Not all correctional facilities within the Department of Corrections contain Administrative Close Supervision Units.] If an inmate receives a sanction that includes **an** administrative segregation [but is housed in a correctional facility that does not have an Administrative Close Supervision Unit, the sanction first must be reviewed by the I.C.C. of the correctional facility in which the inmate is housed. If the sanction is confirmed, the referral for



transfer to an Administrative Close Supervision Unit shall be forwarded to the CRAF Intake Unit where the transfer shall be initiated.] **sanction, the inmate shall be transported to an Administrative Segregation Unit within 72 hours of adjudication, absent extenuating circumstances. The sanction will be reviewed by the I.C.C. of the correctional facility in which the inmate is housed.**

**(f) CRAF Intake Unit will schedule the transfer of inmates to an Administrative Segregation Unit with Central Transportation Unit as high priority (within 24 hours), if the infraction occurs at a facility that does not contain an Administrative Segregation Unit. Not all correctional facilities within the Department of Corrections contain Administrative Segregation Close Custody Units. If the Central Transportation Unit is not available, the Administrator may transfer the inmate with appropriate institutional custody staff.**

**(g) If the inmate is not transferred within the 72-hour time frame and is not in an administrative segregation facility, the inmate is still given the privileges of administrative segregation status. Time served in Prehearing Disciplinary Housing will be credited as time served in administrative segregation. The appeal disposition will be completed by the original facility's administration.**

**(h) Confrontations will be completed via Video TeleConferencing (VTC).**

10A:5-3.2 Special Administrative Segregation Review Committee (S.A.S.R.C.)

(a) (No change.)

(b) The Director of the Division of Operations shall designate voting members who shall be an Associate Administrator/Assistant Superintendent/Correction Major or designee to serve on the S.A.S.R.C.

(c) The S.A.S.R.C. shall be composed of:

1. - 3.(No change.)

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

[(e)] **(f)** The Director may designate a supervisory custody staff member of the rank of Correction Major to attend each meeting of the S.A.S.R.C., who shall have voting power. In the event that a custody staff member of the rank of Correction Major, **or above**, is unavailable, a custody staff member of the rank of Lieutenant who shall have voting power may be designated to attend.

Recodify existing (f)-(g) as **(g)-(h)** (No change in text.)

[(h)] **(i)** An inmate [who has been assigned] **whose disciplinary history results in assignment** to an Administrative Close Supervision Unit for a period of more than 365 days shall have his or her case reviewed by the S.A.S.R.C. every six months, or more frequently if deemed necessary by the S.A.S.R.C. The review shall include the inmate's level assignment and the Committee shall evaluate the inmate's behavior while in the Administrative Close Supervision Unit.

[(i)] **(j)** (No change in text.)

[(j)] **(k)** Upon review of the inmate's level assignment and behavior, the S.A.S.R.C. may determine that the inmate should be released from the Administrative Close Supervision Unit. The S.A.S.R.C. shall determine that an inmate should be released from the Administrative Close Supervision Unit when it concludes that:

1. - 4. (No change).

5. The inmate has a history or presence of a [medical] **healthcare** condition [or mental illness] and continued confinement in administrative segregation is likely to add to the inmate's [medical or] mental decompensation.

[(k)] **(l)** (No change in text.)

[(l)] **(m)** If the S.A.S.R.C. determines to release the inmate, the Committee shall give the inmate written notice of the decision, **however, institutional designations will not be shared with the inmate until just prior to the transfer.** The inmate shall be:

1.-4. (No change.)

Recodify existing (m)–(p) as **(n)–(q)** (No change in text.)

## SUBCHAPTER 7. TEMPORARY CLOSE CUSTODY

### 10A:5-7.1 Placement in temporary close custody

(a) (No change.)

(b) Criteria for placement of an inmate in temporary close custody status are:

1. (No change.)

2. Reasonable suspicion exists to indicate that the inmate is in possession of, or plans to obtain, contraband, which may pose a danger to the inmate or others; **and/or**

[3. The inmate exhibits assaultive, self-mutilating and/or threatening behavior related to a medical or psychiatric condition, in the written opinion of a psychiatrist, psychologist or medical doctor; and/or]

[4.] **3.** (No change in text.)

(c) (No change.)

(d) On or before the expiration of the 72-hour period, unless there are emergent reasons for extension, the inmate shall be released from temporary close custody to:

1. (No change.)
2. Prehearing [detention] **disciplinary housing**;
- 3.-5. (No change.)

(e)-(g) (No change.)

## CHAPTER 9

### CLASSIFICATION PROCESS

#### SUBCHAPTER 2. OBJECTIVE CLASSIFICATION PROCESS

##### 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] **categories** and point values:

1. [Highest] **Category A**: seven points;
2. [High] **Category B**: five points;
3. [Moderate] **Category C**: three points;
4. [Low moderate] **Category D**: two points;
- [5. Low: one point; and]
- [6.] **5. [None] Category E and none**: zero points.

(b) The following prohibited acts appear at the [highest] **Category A** level of the Severity of Offense - Disciplinary Infractions Scale.

1. (No change.)

**2. \* .002 assaulting any person;**

Recodify existing 2.-3. as **3.-4.** (No change in text.)

**5. \* .009 misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device, equipment or peripheral that is capable of transmitting, receiving or storing data and/or electronically transmitting a message, image or data that is not authorized for use or retention (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2)**

Recodify existing 4.-6. as **6.-8.** (No change in text.)

[7. \*.102 attempting or planning escape;]

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

[9. \*.201 possession or introduction of an explosive, incendiary device or any ammunition;

10. \*.215 possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia;

11. \*.216 distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia;]

**10. \*.202 possession or introduction of a weapon, such as, but not limited to, a sharpened instrument, knife or unauthorized tool;**

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

[13.] **12. \*.252** encouraging others to riot; [or]

[14. \*.202 possession or introduction of a gun, firearm, weapon, sharpened instrument, knife or unauthorized tool.]

**13. \*.360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family or pertaining to DOC staff or other law enforcement staff or the family of said staff; or**

**14. \*.803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself.**

(c) The following prohibited acts appear at the [high] **Category B** level of the Severity of Offense - Disciplinary Infractions Scale.

[1. \*.002 assaulting any person;]

**1. \*.004 fighting with another person;**

2.-3. (No change.)

[4. \* 009 misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device, equipment or peripheral that is capable of transmitting, receiving or storing a message, image or data that is not authorized for use or retention (see "electronic communication device" definition at N.J.A.C. 10A:1-2.2);]

**4. \*.008 abuse/cruelty to animals;**

5. (No change.)

**6. \*.011 possession or exhibition of anything related to a security threat group;**

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

**8. \* .054 refusal to register as a sex offender or any refusal to register as required by law;**

**9. \* .102 attempting or planning escape;**

**10. \* .150 tampering with fire alarms, fire equipment or fire suppressant equipment;**

**11. \* .153 stealing (theft);**

Recodify existing 7.-8. as **12.-13.** (No change in text.)

**14. \* .201 possession or introduction of an explosive, incendiary device or any ammunition;**

Recodify existing 9.-10. as **15.-16.** (No change in text.)

**17. \* .205 misuse of authorized medication;**

**18. \* .207 possession of money or currency (in excess of \$ 50.00) unless specifically authorized substances such as drugs, intoxicants or related paraphernalia;**

**19. \* .211 possessing any staff member's clothing and/or equipment;**

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

**21. \* .215 possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia;**

**22. \* .216 distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia;**

Recodify existing 12.-15. as **23.-26.** (No change in text.)

**27. \* .260 refusing to submit to mandatory medical or other testing such as, but not limited to, mandatory testing required by law or court order;**

Recodify existing 16.-18. as **28.-30.** (No change in text.)

**31. \* .502 interfering with the taking of count;**

Recodify existing 19.-21. as **32.-34.** (No change in text.)

[22.] **35. \* .708 refusal to submit to a search; [or]**

[23.] **36.** \*.751 giving or offering any official or staff member a bribe or anything of value[.]; **or**

**37. \* .803 attempting to commit any of the above acts preceded by an asterisk, aiding another person to commit any such act or making plans to commit such acts shall be considered the same as a commission of the act itself.**

(d) The following prohibited acts appear at the [moderate] **Category C** level of the Severity of Offense - Disciplinary Infractions Scale.

[1. \*.004 fighting with another person;]

[2.] **1.** (No change in text.)

[3. \*.011 possession or exhibition of anything related to a security threat group;]

Recodify existing 4.-6. as **2.-4.** (No change in text.)

**5. .053 indecent exposure;**

[7. \*.054 refusal to register as a sex offender or any refusal to register as required by law;]

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

[9. \*.150 tampering with fire alarms, fire equipment or fire suppressant equipment;

10. .152 destroying, altering, or damaging government property, or the property of another person;

11. \*.153 stealing (theft);]

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

[13. \*.205 misuse of authorized medication;

14. .206 possession of money or currency (\$50.00 or less) unless specifically authorized;



15. \*.207 possession of money or currency (in excess of \$50.00) unless specifically authorized;

16. .208 possession of property belonging to another person;

17. .210 possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels;

18. .211 possessing any staff member's clothing and/or equipment;]

**8. .212 possessing unauthorized clothing;**

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

[20. .256 refusing to obey an order of any staff member;

21. .257 violating a condition of any community release program;

22. \*.260 refusing to submit to mandatory medical or other testing such as, but not limited to, mandatory testing required by law or court order;

23. .301 unexcused absence from work or any assignment; being late for work;

24. .304 using abusive or obscene language to a staff member;

25. .305 lying, providing a false statement to a staff member;]

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

[27. \*.360 unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family;]

Recodify existing 28.-29. as **11.-12.** (No change in text.)

[30. .451 failure to follow safety or sanitation regulations;

31. .452 using any equipment or machinery which is not specifically authorized;

32. .453 using any equipment or machinery contrary to instructions or posted safety standards;]

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

[34. .502 interfering with the taking of count;]

Recodify existing 35.-38. as **14.-17.** (No change in text.)

[39. .701 unauthorized use of mail or telephone;]

[40.] **18.** (No change in text.)

[41. .703 correspondence or conduct with a visitor in violation of regulations;]

[42.] **19.** (No change in text.)

[43. .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator;

44. .707 failure to keep a scheduled appointment with medical, dental or other professional staff;

45. .709 failure to comply with a written rule or regulation of the correctional facility;]

**20. .706 soliciting funds and/or noncash contributions from donors within or without the correctional facility except where permitted by the Administrator;**

**21. .752 giving money or anything of value to, or accepting money or anything of value from, another inmate;**

[46.] **22.** .753 purchasing anything on credit; [or]

[47.] **23.** .754 giving money or anything of value to, or accepting money or anything of value from, a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or Departmental rule, regulation or policy or with an intent to further an illegal or improper purpose[.]; **or**

**24. .802 attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself.**

(e) The following prohibited acts appear at the [low moderate] **Category D** level of the Severity of Offense - Disciplinary Infractions Scale.

[1. \*.008 abuse/cruelty to animals;

2. .053 indecent exposure;

3. .209 loaning of property or anything of value;

4. .212 possessing unauthorized clothing;

5. .213 mutilating or altering clothing issued by the government;

6. .302 malingering, feigning an illness;

7. .303 failing to perform work as instructed by a staff member;]

**1. .152 destroying, altering, or damaging government property, or the property of another person;**

**2. .206 possession of money or currency (\$50,000 or less) unless specifically authorized;**

**3. .210 possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels;**

**4. .256 refusing to obey an order of any staff member;**

**5. .305 lying, providing a false statement to a staff member;**

Recodify existing 8.-9. as **6.-7.** (No change in text.)

[10. .651 being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards; or

11. .652 tattooing or self mutilation.]

**8. .653 tattooing;**

**9. .709 failure to comply with a written rule or regulation of the correctional facility;**

**or**

**10. .802 attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself.**

(f) The following prohibited acts appear[s] at the [low] **Category E** level of the Severity of Offense - Disciplinary Infractions Scale.

[1. .752 giving money or anything of value to, or accepting money or anything of value from, another inmate.]

**1. .208 possession of property belonging to another person;**

**2. .209 loaning of property or anything of value;**

**3. .213 mutilating or altering clothing issued by the government;**

**4. .257 violating a condition of any Residential Community Program or Residential Community Release Program;**

**5. .301 unexcused absence from work or any assignment; being late for work;**

**6. .302 malingering, feigning an illness;**

**7. .303 failing to perform work as instructed by a staff member;**

**8. .304 using abusive or obscene language to a staff member;**

**9. .451 failure to follow safety or sanitation regulations;**

**10. .452 using any equipment or machinery which is not specifically authorized;**

11. .453 using any equipment or machinery contrary to instructions or posted safety standards;
12. .651 being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards;
13. .701 unauthorized use of mail or telephone;
14. .703 correspondence or conduct with a visitor in violation of regulations;
15. .707 failure to keep a scheduled appointment with medical, dental or other professional staff; or
16. .802 attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself.

#### SUBCHAPTER 4. ELIGIBILITY CRITERIA FOR REDUCED CUSTODY CONSIDERATION

##### 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 criminal mischief involving arson**, with no previous such adult convictions; or an inmate presently serving a sentence for an offense that does not preclude reduced custody status but who has a prior adult conviction for arson, **or criminal mischief 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 minimum units (**except Jones Farm and Rahway Camp**)

(a) – (d) (No change.)

## CHAPTER 14

### INMATE HYGIENE AND GROOMING; USE OF TOBACCO PRODUCTS; INMATE IDENTIFICATION PHOTOGRAPHS; HOUSEKEEPING AND SANITATION; CLOTHING, BEDDING, AND LAUNDRY

#### SUBCHAPTER 1. GENERAL PROVISIONS

10A:14-1.7 [Detention and] Close Custody Unit provisions

(a) The provisions established in this chapter shall apply to inmates assigned to the [Detention Program] **Close Custody** unless otherwise established in N.J.A.C. 10A:4-10 or [the Detention Program] **related** internal management procedures.

(b) (No change.)

## CHAPTER 18

### MAIL, VISITS, AND TELEPHONE

#### SUBCHAPTER 2. CORRESPONDENCE

10A:18-2.21 Forwarding correspondence to an inmate remanded to a [detention facility] **close custody unit**

(a) (No change.)

(b) Designated staff at the correctional facility shall develop written procedures for forwarding an inmate's correspondence when the inmate is remanded to a [detention facility] **close custody**

**unit.** These procedures shall include a form that the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes correspondence forwarded.

### SUBCHAPTER 3. LEGAL CORRESPONDENCE

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

#### **close custody unit**

(a) (No change.)

(b) Designated staff at the correctional facility shall develop written procedures for forwarding an inmate's legal correspondence when the inmate is remanded to a [detention facility] **close custody unit.** These procedures shall include a form that the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes the legal correspondence forwarded.

### SUBCHAPTER 4. PUBLICATIONS

10A:18-4.16 Forwarding publications to an inmate remanded to a [detention facility] **close**

#### **custody unit**

(a) (No change.)

(b) Designated staff at the correctional facility shall develop written procedures for forwarding an inmate's publications when the inmate is remanded to a [detention facility] **close custody unit.** These procedures shall include a form that the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes publications forwarded.

### SUBCHAPTER 5. PACKAGES

10A:18-5.9 Forwarding packages to an inmate remanded to a [detention facility] **close custody unit**

(a) (No change.)

(b) Designated staff at the correctional facility shall develop written procedures for forwarding packages to an inmate when the inmate is remanded to a [detention facility] **close custody unit**.

These procedures shall include a form that the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes packages forwarded.

SUBCHAPTER 6. VISITS

10A:18-6.5 Special visits

(a) – (b) (No change.)

(c) Close Custody visits shall be governed by N.J.A.C. 10A:5, Close Custody Units[, and N.J.A.C. 10A:4-10, Detention Program].