

## 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**

#### **Inmate Groups**

#### **Proposed Readoption with Amendments: N.J.A.C. 10A:12**

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

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

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

Proposal Number: PRN 2016-181.

Submit written comments by January 6, 2017, to:

Kathleen Cullen

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The agency proposal follows:

### **Summary**

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:12 was scheduled to expire on September 23, 2016. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (Department) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration is extended 180 days to March 22, 2017. The Department has reviewed these rules and, with the exception of the amendments proposed herein, has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules are, therefore, proposed for readoption at this time.

The practice of the Department of Corrections has been to permit correctional facility administrators to approve the formation and activities of inmate groups that provide beneficial services to the inmate population, opportunities for participants to share in a community of interests, and opportunities for participants to develop communication, socialization, and organizational skills.

Subchapter 1, General Provisions, establishes the purpose, scope, and definitions of the chapter.

Subchapter 2 sets forth provisions for establishing and maintaining an inmate group and includes rules regarding the authority and responsibility of correctional facility administrators, management of inmate group assets, inmate participation in groups, access to facility space and equipment, financial management, recordkeeping, searches, termination or dissolution of an inmate group, and prohibited inmate groups. The Department proposes to readopt the rules at N.J.A.C. 10A:12 with amendments at N.J.A.C. 10A:12-2.2(b)6, 2.3(a), (b), and (c) to reflect a change in terminology from members/membership to participants/participation. Use of members/membership, in the context of inmate groups, could potentially be misinterpreted to imply that fees or dues are paid and/or that an inmate(s) can remove another inmate from the group. Only the Administrator can remove an inmate from an inmate group. Minor wording changes are proposed at N.J.A.C. 10A:12-2.8 to clarify that written inmate group termination notices should include the reason(s) for termination.

Subchapter 3 sets forth provisions for the establishment of a correctional facility Inmate Liaison Committee that includes composition, Committee constitution, bylaws and meetings, access to physical facilities and equipment, and the designation of an alternate to the Committee. At N.J.A.C. 10A:12-3.5(a) the words, "at the discretion of the Administrator or designee" are proposed to be added for consistency with N.J.A.C. 10A:12-2.5(b).

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

### **Social Impact**

The rules proposed for readoption with amendments permit the formation of approved inmate groups. Approved inmate groups provide a forum for inmates to join in a community of individuals who share interests and activities and have the potential to provide benefit to the participants and possibly others outside the group through humanitarian endeavors. Providing inmates with the ability to form an approved inmate group provides outlets for constructive activities and a means to develop communication, socialization, and organizational skills that would have a positive social impact.

Provisions for a correctional facility Inmate Liaison Committee establish the opportunity for inmates, through their representatives, to voice comments, submit information, and make recommendations to the correctional facility administration. Additionally, the correctional facility administration may provide information to the group and the inmate population through the Inmate Liaison Committee. Hence, Inmate Liaison Committees enable correctional facility entities to work together and effectuate communications and would have a positive social impact.

### **Economic Impact**

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

### **Federal Standards Statement**

The rules proposed for readoption with amendments are promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The rules proposed for readoption with amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

### **Jobs Impact**

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

### **Agriculture Industry Impact**

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

### **Regulatory Flexibility Statement**

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

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments shall have no impact on housing affordability and there is an extreme unlikelihood the rules would invoke a change in the average costs of housing. The rules proposed for readoption with amendments pertain to establishing and maintaining an inmate group including rules regarding the authority and responsibility of correctional facility administrators, management of inmate group assets, inmate participation in groups, access to facility space and equipment, financial management, recordkeeping, searches, termination, or dissolution of an inmate group, and prohibited inmate groups, as well as the Inmate Liaison Committee.

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

The rules proposed for readoption with amendments shall have no impact on smart growth development and would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The rules proposed for readoption with amendments pertain to the formation of approved inmate groups and the Inmate Liaison Committee.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:12.

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

## SUBCHAPTER 2. ORGANIZATION OF INMATE GROUPS

### 10A:12-2.2 Request to establish an inmate group

(a) (No change.)

(b) A request to establish an inmate group shall be submitted in writing to the Administrator or designee and shall include:

1. – 5. (No change.)

6. The projected number of [members] **participants** and criteria for [membership] **participation**;

7. - 14. (No change.)

### 10A:12-2.3 Inmate groups [membership] **participation**

(a) Inmate group [membership] **participation** shall be:

1. – 2 (No change.)

(b) Inmate group [membership] **participation** shall not be contingent upon payment of dues, donations, or any service in kind.

(c) Inmate [membership] **participation** in a group established within a correctional facility shall be terminated upon transfer or release of that inmate from the correctional facility.

### 10A:12-2.8 Termination of inmate groups or group activities

(a) (No change.)

(b) The Administrator shall provide written notice of termination [and] **including** the [reasons therefor] **reason(s) for termination** to the elected leaders of the inmate group.

## SUBCHAPTER 3. INMATE LIAISON COMMITTEE

10A:12-3.5 Access to facility office space

(a) Access to office space may be provided **at the discretion of the Administrator or designee** to the Inmate Liaison Committee for conducting Committee business:

1. – 4 (No change.)