

RULE PROPOSALS

INTERESTED PERSONS

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

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

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

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

CORRECTIONS

THE COMMISSIONER

Fiscal Management

Proposed Readoption with Amendments: N.J.A.C. 10A:2

Proposed Repeal: N.J.A.C. 10A:2-1.4

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

Authority: N.J.S.A. 2C:14-10, 2C:25-29.4, 2C:35A-1 et seq., 2C:43-3.7, 30:1B-6, and 30:1B-10.

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

Proposal Number: PRN 2018-040.

Submit written comments by July 20, 2018, to:

Kathleen Cullen
Administrative Rules Unit
Office of the Commissioner
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863
or via e-mail to ARU@doc.nj.gov

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:2 was scheduled to expire on April 20, 2018. 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 date is extended 180 days to October 17, 2018. The Department has reviewed these rules and, with the exception of the amendments and repeal 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.

Subchapter 1 sets forth the general provisions, purpose, and scope of the chapter along with applicable definitions and forms. The Department proposes to repeal N.J.A.C. 10A:2-1.4, Forms, as all of the forms included in this section are for internal Department use only and are better referenced in internal management procedures rather than in this chapter. As a result, amendments to N.J.A.C. 10A:2-6.1(a), (b), (c), (d), (g), (i), and (j), 6.3(a), 9.11(c) and (e), and 10.4 are necessary in order to refer to forms in a more general manner and to remove actual form number references in this chapter. In addition, the Department proposes generalizing the reference to the related investigative report by removing the words "Custody Operations" at N.J.A.C. 10A:2-6.1(d) and (e).

Subchapter 2 sets forth rules and responsibilities for inmate accounts, as well as inmate account deposits and deductions and individual savings accounts. The Department proposes to add the words "or designee" following the specified references to "the Business Manager" to provide greater staff availability and flexibility in addressing inmate account issues and concerns at N.J.A.C. 10A:2-2.1(a) and (b), 2.2(f), (h), and (j), 2.3(c), 3.2(a), 6.1(d), (e), and (g), and 7.4(b). At N.J.A.C. 10A:2-2.2(f), the Department proposes to add new paragraphs (f)10 and 11 to the list of monetary inmate sanctions for computer crime prevention and sex offender supervision fees, respectively, as required by N.J.S.A. 2C:43-3.8.

Subchapter 3 sets forth rules associated with expenditure of inmate welfare funds, including sources of inmate income for inmate welfare funds, as well as accountability and expenditure.

Subchapter 4 is reserved.

Subchapter 5 includes rules for reporting loss of funds to the Administrator.

Subchapter 6 sets forth the process for claiming inmate reimbursement for lost, damaged, or destroyed personal property. This process includes filing a claim, factors in approving or denying a claim, time limits, and inmate notification. The Department proposes to amend the title "Manager" to "Supervisor" associated with the Bureau of Accounting and Revenue to reflect current business processes and job responsibilities at N.J.A.C. 10A:2-6.1(h) through (m) and to replace "Director of Custody Operations" with "Correction Major" at subsection (b) to reflect current business processes and job responsibilities.

Subchapter 7 sets forth a process by which restitution can be imposed and appealed for items damaged or destroyed items. It also includes the roles of the Administrator and Business Manager. The Department proposes to delete N.J.A.C. 10A:2-7.3(a) as the information set forth in N.J.A.C. 10A:2-7.3(a) is also contained in subsection (b). Subsection (b) not only states that each correctional facility shall determine the cost of replacing or repairing damaged or destroyed item(s) but will also develop related internal management procedures.

Subchapter 8 is reserved.

Subchapter 9 sets forth rules for gifts of money and goods to the Department and inmate groups.

Subchapter 10 sets forth rules for grants, grant planning, processing, and reporting. The Department proposes to substitute the term “non-State” with “all” to reflect the current responsibilities of the Grants Manager at N.J.A.C. 10A:2-10.1(a); “non-State” is also proposed for deletion from N.J.A.C. 10A:2-10.2. The Department also proposes to amend N.J.A.C. 10A:2-10.1(b)5 by substituting “applicants” with “applications” and N.J.A.C. 10A:2-10.2 by replacing the word “submit” with “send an e-mail or” to provide the option of sending an e-mail or a memorandum to the Grants Manager.

The Department 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 and a repeal will continue to provide the Department with guidelines for the management of inmate accounts, inmate welfare funds, reporting loss of funds, reimbursement for personal property, restitution, receipt of gifts, and processing grants. The rules proposed for readoption with amendments and a repeal will assist Business Managers and other Departmental staff members to prudently and efficiently administer the day-to-day responsibilities of fiscal management.

Economic Impact

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

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption with amendments and a repeal.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a repeal 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 and a repeal 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 and a repeal affect inmates, the Department, and governmental entities responsible for the enforcement of the rules.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and a repeal will have no impact on the affordability of housing. The rules proposed for readoption with amendments and a repeal establish provisions for fiscal management. As such, this rulemaking affects the Department and governmental entities responsible for the enforcement of the rules and would not invoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and a repeal will 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 and a repeal concern the tenure of teachers and other certified professional educators in Department and governmental entities responsible for the enforcement of the rules.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:2.

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

SUBCHAPTER 1. GENERAL PROVISIONS

[10A:2-1.4 Forms

(a) The following forms related to fiscal management are available by accessing the Department of Corrections 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. 943-I Inmate Claim for Lost, Damaged or Destroyed Personal Property;
2. 943-II Certification of Inmate Claim;
3. 943-III Review of Inmate Claim;
4. 947-I Monthly Report of Gifts Received;
5. 947-II Annual Report of Gifts Received;
6. 950-I Fiscal Report of Grants Received;
7. 950-II Report of Progress of Projects Funded by Grants.

(b) The following form related to fiscal management shall be obtained from the business office of the correctional facility:

1. State of New Jersey Payment Voucher (Vendor Invoice).]

SUBCHAPTER 2. INMATE ACCOUNTS

10A:2-2.1 Responsibility for inmate accounts

(a) The Business Manager **or designee** of the correctional facility shall be responsible for maintaining inmate accounts and recordkeeping.

(b) The Business Manager **or designee** shall be responsible for providing an inmate with a monthly statement containing each financial transaction processed.

10A:2-2.2 Deposits and deductions

(a) - (e) (No change.)

(f) Pursuant to N.J.S.A. 2C:46-1, deductions from inmate accounts shall be made by the Business Manager **or designee** to pay a transaction fee not to exceed \$ 1.00 on each occasion a restitution payment or installment payment is made by an inmate who committed an offense on or after February 1, 1993. Deductions shall be made for:

- 1.-8. (No change.)
9. The Certain Sexual Offenders surcharge (see N.J.S.A. 2C:43-3.7); [and]
- 10. Computer Crime Prevention (see N.J.S.A. 2C:43-3.8);**

11. Sex Offender Supervision Fee (see N.J.S.A. 2C:43-3.8); and

[10.] **12.** Any other fine, penalty, or restitution for which a transaction fee is authorized by law.

(g) (No change.)

(h) Only nonindigent inmate funds in excess of the [one time] **one-time** monthly amount of \$ 15.00 can be deducted by the Business Manager **or designee** in accordance with (d) above.

(i) (No change.)

(j) Pursuant to N.J.S.A. 30:4-15.1, the Business Manager **or designee** shall deduct from the account of an inmate a 10 percent surcharge on the sale price of every commissary item purchased by the inmate. Pursuant to Departmental internal management procedures, these collected funds shall be forwarded to the State Treasurer for deposit into the Victims of Crime Compensation Board (VCCB) account.

10A:2-2.3 Individual savings accounts

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

(c) Bonds and certificates of deposit must be held for safekeeping by the Business Manager **or designee**.

(d)-(f) (No change.)

SUBCHAPTER 3. EXPENDITURE OF INMATE WELFARE FUNDS

10A:2-3.2 Accountability and expenditure

(a) The Business Manager **or designee** of the correctional facility shall be responsible for maintaining inmate welfare account funds and recordkeeping.

(b)-(g) (No change.)

SUBCHAPTER 6. INMATE REIMBURSEMENT FOR LOST, DAMAGED, OR DESTROYED PERSONAL PROPERTY

10A:2-6.1 Filing a claim at a correctional facility or satellite unit

(a) When an inmate claims the loss, damage, or destruction of personal property, other than personal property disposed of in accordance with N.J.A.C. 10A:1-11, Personal property of inmates, the inmate shall complete and submit [Form 943-I] **the applicable form(s) for Inmate Claim For Lost, Damaged Or Destroyed Personal Property** to the Administrator or designee.

(b) The Administrator or designee shall submit [Form 943-I] **the claim form(s)** to the [Director of Custody Operations] **Correction Major** or designee for investigation and preparation of a report. The investigation conducted by the [Director of Custody Operations] **Correction Major** or designee shall consist of, but not be limited to:

1.-3. (No change.)

(c) Upon completion of the investigation, [Form 943-I] **the applicable form(s)** and a copy of the investigative report shall be submitted to the Business Manager **or designee** of the correctional facility for review.

(d) The Business Manager **or designee** shall review [Form 943-I] **the applicable form(s)** and the [Custody Operations] investigative report, and complete [Form 943-II] **the Certification of Inmate Claim form** indicating a recommendation to approve or deny the claim with substantiating reasons.

(e) The claim packet shall include [Forms 943-I and 943-II] **all applicable form(s)** and the [Custody Operations] investigative report. The claim packet shall be submitted by the Business

Manager **or designee** to the Administrator for review and recommendation for approval or denial.

(f) (No change.)

(g) If the Administrator recommends approval of a claim, the Administrator shall complete and sign the applicable sections of [Form 943-III, Review of Inmate Claim] **the claim form(s)** and return the claim packet [including Form 943-III] to the Business Manager of the correctional facility. The Business Manager **or designee** shall then complete a State of New Jersey Payment Voucher (Vendor Invoice) and have said invoice signed by the inmate.

(h) The claim packet[, to include the signed State of New Jersey Payment Voucher (Vendor Invoice),] shall be submitted by the Business Manager to the [Manager] **Supervisor**, Bureau of Accounting and Revenue.

(i) When a claim is not in compliance with the requirements of this section, the [Manager] **Supervisor**, Bureau of Accounting and Revenue shall indicate disapproval [on Form 943-III] and return the claim packet to the requesting correctional facility Business Manager with the reasons for noncompliance noted.

(j) When a claim is in compliance with the requirements of this section, the [Manager] **Supervisor**, Bureau of Accounting and Revenue shall indicate a recommendation for approval [on Form 943-III] and submit the claim packet to the Assistant Commissioner, Division of Operations for a recommendation for approval or denial of the claim.

(k) Claims denied by the Assistant Commissioner, Division of Operations shall be returned to the requesting correctional facility Business Manager through the [Manager] **Supervisor**, Bureau of Accounting and Revenue with the reason(s) for denial noted.

(l) Claims recommended for approval by the Assistant Commissioner, Division of Operations shall be forwarded to the Director, Office of Financial Management through the [Manager] **Supervisor**, Bureau of Accounting and Revenue.

(m) Claims denied by the Director, Office of Financial Management shall be returned to the requesting correctional facility Business Manager through the [Manager] **Supervisor**, Bureau of Accounting and Revenue with the reason(s) for denial noted.

(n) (No change.)

10A:2-6.3 Time limit for filing a claim

(a) It shall be the responsibility of the inmate to initiate a claim by completing [Form 943-I] **the applicable form(s) for an Inmate Claim For Lost, Damaged Or Destroyed Personal Property** within 15 calendar days of the incident or discovery of the incident.

(b) (No change.)

SUBCHAPTER 7. RESTITUTION FOR ITEMS DAMAGED OR DESTROYED

10A:2-7.3 Amount of restitution

[(a) The amount of restitution ordered shall equal the cost of replacement or repair of the item(s) damaged or destroyed.]

[(b)] Each correctional facility shall develop internal management procedures for determining the cost of replacing or repairing an item(s) that has been damaged or destroyed.

10A:2-7.4 Role of the Administrator

(a) (No change.)

(b) If the Administrator affirms the sanction of restitution, the Administrator shall order the Business Manager **or designee** to withdraw funds from the account of the inmate for the purpose of restitution.

SUBCHAPTER 9. GIFTS

10A:2-9.11 Reports of gifts of money or material

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

(c) Administrators and unit supervisors shall complete and attach [Form 947-I,] **the** Monthly Report Of Gifts Received to their monthly reports [which] **that** shall include a list of all gifts of money or material received having a value of \$100.00 or more along with the conditions, limitations, or restrictions placed by the donor(s) on the use of such gifts.

(d) (No change.)

(e) As a part of the Annual Report to the Assistant Commissioner, Administrators and unit supervisors shall report on [Form 947-II,] **the** Annual Report Of Gifts Received all gifts received during the fiscal year and the progress of projects funded by these gifts.

SUBCHAPTER 10. GRANTS

10A:2-10.1 Responsibilities of the Grants Manager

(a) The Grants Manager shall review and process proposals, concept papers, and other requests for all grants from [non-State] **all** budgeted agencies.

(b) The responsibilities of the Grants Manager shall include, but are not limited to:

1. - 4. (No change.)

5. Transmitting all [applicants] **applications** for grants to the Commissioner or designee for review, approval, and signature.

10A:2-10.2 Planning

For planning purposes, any correctional facility or administrative unit contemplating a [non-State] funded project shall [submit] **send an e-mail or** a memorandum containing information on the major components of the contemplated project request to the Grants Manager as soon as this information is available.

10A:2-10.4 Reports

The Administrator or unit supervisor shall complete and submit [Form 950-I] **the** Fiscal Report of Grants Received and [Form 950-II] **the** Report of Progress of Projects Funded by Grants to the Assistant Commissioner, Division of Administration, with the Annual Report.