

**PUBLIC NOTICE**

**CORRECTIONS**

**THE COMMISSIONER**

**Notice of Action of Petition for Rulemaking**

**Fiscal Management, Limitations on Packages, Function of the Inmate Liaison Committee  
and Correctional Facility/Unit Chaplaincy and Religious Issues Committee**

**N.J.A.C. 10A:2-11, 10A:18-5.2, 10A:12-3.1, and 10A:17-6.4, 6.5, 6.6, and 6.7**

Petitioner: Abdiel Avila.

**Take notice** that on December 9, 2019, the New Jersey Department of Corrections received two letters containing petitions for rulemaking from the above petitioner requesting that the Department adopt new rules and amendments to the rules governing N.J.A.C. 10A:2-11, Fiscal Management, 10A:18-5.2, Limitations on Package, 10A:12-3.1, Function of the Inmate Liaison Committee, and 10A:17-6.5, 6.6, and 6.7, Correctional Facility/Unit Chaplaincy and Religious Issues Committee. The petitioner requested amendments at N.J.A.C. 10A:2-11 to include a new subparagraph for food services rules, N.J.A.C. 10A:18-5.2(d) regarding food packages, N.J.A.C. 10A:12-3.1(c) to establish rules for a new Commissary Committee, N.J.A.C. 10A:17-6.5, 6.6, and 6.7 to increase the number of chaplains per correctional facility to four and require Hispanic ethnicity and language skills in both English and Spanish of at least one chaplain in each facility and at N.J.A.C. 10A:17-6.4 specify sources for Department Chaplaincy budget, budget allocation, and grants participation for the funding of new and/or amended programs/services.

The Commissioner hereby certifies that the petition has been duly considered, and has determined that the Department shall deny the petition for formal rulemaking.

In general, the petitioner has requested amendments to several sections of N.J.A.C. 10A to address a list of this inmate's grievances that the petitioner feels are not satisfied using Inmate Remedy System and correspondence with the Religious Issues Committee and notes that the promulgation of rule amendments will avoid lawsuits. For example; "the petitions and suggested amendments and new rules" ... "provides the Department of Corrections solutions to"... "reduce liability and state risk factors from law suits" and "the rule changes" "are recommended to remedy problems and oversights" ... "after"... "exhausting"... "the facility inmate remedy system" ... "thereby memorializing the intent" ... "and appealing grievances by way of rule amendments" and ... "provides an added safeguard from economic [r]isk factors to prevent [a] lawsuit." It must be made clear that the Department of Corrections (DOC) will not amend its rules without good cause including the benefit, safety and security of all inmates, staff, volunteers, and the general public. The Inmate Remedy System found at N.J.A.C. 10A:1-4, includes a process for inmate requests, grievances, and appeals. The petitioner is encouraged to see N.J.A.C. 10A:1-4.6(d) that sets forth the fact that the decision/finding of the Administrator or designee is the final level of review and decision or findings of the Department of Corrections.

The petitioner requested that N.J.A.C. 10A:2-11, Fiscal Management, be amended to include a new subparagraph for food services rules stating that only "the adult county correctional facility has published rules" regarding food services. The DOC is responsible for promulgation the rules for the adult county correctional facilities at N.J.A.C. 10A:31 and based the existing rules on existing DOC internal management procedures. The DOC operates food services for State correctional facilities based on existing DOC internal management procedures and for the reasons stated will take no action on the requested amendments as they are not necessary.

The petitioner requests that N.J.A.C. 10A:18-5.2, Limitations on packages, be amended regarding food packages to provide clarity and increase the incentive food package to every three months but provides no rationale for the request or statement of any problem. For those reasons the requested amendments are denied.

The petitioner requests that N.J.A.C. 10A:12-3.1, Function of the Inmate Liaison Committee, be amended to establish rules for a new inmate Commissary Committee using the prevention of a lawsuit rational and claims this will “increase[s] Statewide bottom line profits from sales of approved vendors” without clear explanation. No action will be taken on this request.

N.J.A.C. 10A:17-6.4, 6.5, 6.6, and 6.7, Correctional facility/unit chaplaincy and Religious Issues Committee. The amendments requested by the petitioner relative to chaplaincy services refer to the fact that the petitioner’s list of this inmate’s grievances have not been satisfied using Inmate Remedy System forms and correspondence to the Religious Issues Committee, that there is a need for a seminary college and an inmate religious group. Please see the remarks above regarding the Inmate Remedy System and the final level of review and decision or findings of the Department of Corrections and N.J.A.C. 10A:1-4.6(d). The petitioner also states that the Department rules “do not use any fair employment practices and in 10A:17 et seq. avoids any language that provides hiring and promotion practices to H[h]ispanics.” DOC hiring practices are based on Civil Service Commission rules found at N.J.A.C. Title 4A and anti-discrimination laws of the State of New Jersey. Those hiring practices and laws prohibit employment discrimination based on ethnicity, among other things, and no action will be taken with regard to this request.

As to the request for new rules at N.J.A.C. 10A:17-6.4 to specify sources for Department chaplaincy budget, specific budget allocations, State and/or Federal budget appropriations and participation in grants funding for the establishment of an “in-prison Colleg[u]e and Seminary Program available in [E]nglish and [S]panish,” no action will be taken. Post-secondary educational programs in New Jersey State correctional facilities operate using private funds only and the need for the program suggested by the petitioner will not necessarily benefit all inmates and no sources of private funding have been identified by the petitioner.

The petitioner is urged to refer to the rules for inmate groups at N.J.A.C. 10A:12-2 and 10A:17-5.18 and any decisions previously rendered via the Inmate Remedy System and/or the Religious Issues Committee with reference to the petitioner’s request to establish new rules at N.J.A.C. 10A:17-6.4 to form a religious group with tax exempt 501(c)3 status, a leadership structure, space, equipment, and supplies. This request has already been addressed via the Inmate Remedy System and/or the Religious Issues Committee and is, therefore, denied.

Not only is the request to form a religious organization proposed by the petitioner denied, but it must be noted that inmate groups shall not have the ability to enter into “memoranda of understanding with other organizations” as it is akin to entering into a contract, which is prohibited at N.J.A.C. 10A:12-2.4(a)3.

The petitioner suggested amendments to allow for use of inmate welfare funds for religious awards, annual religious licensing fees, religious holiday incentive program decorations, outside food, and guest speakers are denied. As stated at N.J.A.C. 10A:2-3.2(c) “Inmate welfare funds shall be spent on amenities only for the use, benefit and general welfare of the inmate population as a whole ...”

The petitioner's request for a religious mentoring program is denied as a faith-based mentor program is already offered to inmates through the Division of Programs and Community Service. The New Jersey Department of Corrections has over 800 volunteers of which many serve in dual capacity as volunteers and mentors.

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioner, this notice of action on the petition.