

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. 52:14B3. 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

Mail, Visits, and Telephone

Proposed Readoption with Amendments: N.J.A.C. 10A:18

Proposed Repeals and New Rules: N.J.A.C. 10A:18-1.4 and 7.9

Proposed New Rule: N.J.A.C. 10A:18-6.22

Proposed Repeals N.J.A.C. 10A:18-2.1, 3.1, 4.1, 5.1, and 7.1

Authorized By: Victoria L. Kuhn Esq., 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 2022-155.

Submit written comments by April 22, 2023, to:

Kathleen Cullen
Administrative Rules Unit
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863
or through email to: ARU@doc.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:18 was scheduled to expire on October 27, 2022. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (“Department” or “DOC”) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration date was extended 180 days to April 25, 2023. The Department has reviewed these rules and, with the exception of the proposed amendments, new rules, and repeals, 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 with amendments, repeals, and new rules.

The Department of Corrections has determined that the comment period for this notice of proposal will 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.

Subchapter 1 sets forth general provisions for Chapter 18, including the purpose, definitions of words particular to the subchapter, and notice to inmates about changes to the rules in Chapter 18. The Department proposes to add new N.J.A.C. 10A:18-1.1(a)5 to reflect that rules for the recently available inmate access to electronic correspondence, email, e-photos, and e-videos are now included in the subchapter and new paragraph (a)7 is proposed to allow inmate remote video visitation, which is available on a limited basis and is dependent on the available technology and network capacity in correctional facilities.

Given the recent availability of electronic correspondence, email, e-photos, e-videos, e-publications, and video visitation in correctional facilities, the Department proposes to add new definitions at N.J.A.C. 10A:18-1.3(a) for “electronic correspondence,” “obscene material,” “pornography,” “sexually explicit,” “video visitation,” and “video gram” and to add new subsection (b) to indicate that definitions specific to inmates in the Adult Diagnostic and Treatment Center (ADTC) are located at N.J.A.C. 10A:18-9.1.

As the form included at N.J.A.C. 10A:18-1.4 is only available locally and is available to all inmates in all correctional facilities, the Department proposes to repeal and replace the language in this section with rules common to correspondence, publications, and packages currently set forth at three separate locations in the chapter. The proposed new section acknowledges that the notice to inmates of rule changes are in addition to those required in the Administrative Procedures Act (APA). The new language contains language relocated from N.J.A.C. 10A:18-2.1, 4.1, and 10A:18-5.1 (which are all proposed for repeal).

The rules at Subchapter 2 pertain to correspondence and include, but are not limited to, inspection, identification, disapproved correspondence, receipt of finds, removal of correspondence from an inmate, and appeals.

N.J.A.C. 10A:18-2.1 is proposed for repeal as the substance is proposed to be relocated to N.J.A.C. 10A:18-1.4(a) and (b). At N.J.A.C. 10A:18-2.4, the Department proposes to include electronic correspondence within the allowance of this section. This change is also proposed at N.J.A.C. 10A:18-2.6(g), 2.12, and 2.14 (heading).

Proposed new N.J.A.C. 10A:18-2.6(i) and (j), which pertain to electronic correspondence, specify that, for security reasons, this means of communications is monitored and that privileged attorney-client information should not be conveyed in this manner and that there may be delivery delays due to the monitoring process.

The Department proposes to add new N.J.A.C. 10A:18-2.7(g), pertaining to the inspection of outgoing correspondence.

As users of the Department's rules often focus only on specific sections, and rules are often repeated to emphasize their importance and application to varying situations, the Department proposes new N.J.A.C. 10A:18-2.9(e) and (f), pertaining to monitoring electronic emails, e-photos, e-books, and e-videos; how electronic correspondence will be handled when privileges to electronic devices and/or sending and receiving electronic correspondence are suspended; and to, again, emphasize that electronic correspondence should not be used by inmates to communicate with attorneys, as the content of the email will be monitored and will not be treated as privileged and confidential.

The Department proposes to expand the list at N.J.A.C. 10A:18-2.14(a)6iii and to add new subparagraph (a)6iv, based on experience with the existing list and the need to provide a better understanding as to what is disapproved correspondence. The Department proposes to codify existing electronic correspondence rules put in place for safety and security purposes by adding N.J.A.C. 10A:18-2.14(a)7, 8, and 9. Additional safety and security considerations are proposed in new subsections, regarding how withheld electronic correspondence will be handled at N.J.A.C. 10A:18-2.16(b) and (c). Inmates may appeal situations in which electronic correspondence is removed, discarded, or deleted, as set forth at proposed new N.J.A.C. 10A:18-2.18(f), (g), and (h).

Based on revised policies for the cost of mailing correspondence for non-indigent inmates, the Department proposes to delete N.J.A.C. 10A:18-2.24(d), (e), and (g).

The rules at Subchapter 3 address legal correspondence and include, but are not limited to, inspection, identification, disapproved correspondence, receipt of funds, withholding or removal of correspondence from an inmate, and appeals. Given the proposal to relocate rules from N.J.A.C. 10A:18-3.1 to 1.4, the Department proposes to repeal N.J.A.C. 10A:18-3.1.

The Department proposes to expand the list at N.J.A.C. 10A:18-3.4, by adding new subsections (f), (g), and (h) to provide a better understanding of inspection of incoming legal correspondence based on experience with the existing list. In addition, the Department wants to make clear that traditional paper legal correspondence is not read, but it is inspected for contraband, while the content of electronic legal correspondence is read based on network and security concerns, such as malware.

Subchapter 4 includes rules for publications including, inspection, identification, disapproved content or sources, removal of correspondence, and appeals. Given the proposal to relocate rules from N.J.A.C. 10A:18-4.1 to 1.4, the Department proposes to repeal N.J.A.C. 10A:18-4.1, so that the beginning of this chapter sets forth the rights related to how new or revised rules are made known.

The Department proposes to amend N.J.A.C. 10A:18-4.5(a), so that it is clear that electronic publications will be subject to inspection. In addition, a new sentence is proposed to be added to indicate why only some electronic publications will be read and includes the prior authorization of the Administrator, or designee. In addition, proposed new N.J.A.C. 10A:18-1.3(b) sets forth the reasons delays may be experienced in the delivery of electronic publications.

Subchapter 5 sets forth rules for packages and the Department proposes to repeal N.J.A.C. 10A:18-5.1, as the section has been consolidated into N.J.A.C. 10A:18-1.4.

Subchapter 6 sets forth rules for inmate visit privileges, including visitor lists, approvals, special visits, attorney and court visits, visits from children, visit schedules, supervision, and denial, termination, and suspension of visits. The Department propose to amend the heading of

the subchapter from “visits” to “visit privileges.” The Department also proposes to clarify that Form 292-I is available locally in each correctional facility at subsection (e).

In correctional facilities where the required technology and network capacity is available, the Department has implemented pilot programs for video visits and proposes to add new rules at N.J.A.C. 10A:18-6.22 with the intention of continuing the privilege in those facilities and expanding the privileges to more facilities with the necessary technology and network capacity.

Subchapter 7 sets forth rules for bedside, private viewing, and funeral visits. The Department proposes to repeal N.J.A.C. 10A:18-7.1, as it has been consolidated into N.J.A.C. 10A:18-1.4, and to repeal and replace N.J.A.C. 10A:18-7.9 as the existing rule is an internal DOC function and replace it with that video visits (as set forth at proposed new N.J.A.C. 10A:18-6.22) may be available for bedside, private viewing, and funeral visits.

Subchapter 8 sets forth rules for telephone privileges, including, but not limited to, monitoring calls and the cost of calls and the Department proposes to amend the subchapter heading from “telephone” to “telephone privileges” to make clear that use of the telephone is not a right but a privilege. The Department also proposes to delete N.J.A.C. 10A:18-8.2(b), (c), (d), and (e), as those subsections have been consolidated into N.J.A.C. 10A:18-1.4.

Subchapter 9 includes restrictions on sexually oriented materials at the ADTC and sets forth related rules and definitions. The Department proposes to improve the readability of N.J.A.C. 10A:18-9.3(d) by replacing the mock up form fields and replace it with the “inmate’s file shall be updated by a DOC staff member indicating; the date, the staff members name, signature and date.”

Social Impact

The rules proposed for readoption with amendments, repeals, and new rules provide information regarding the mail, visits, and telephone. The Department anticipates a positive social impact as a result of the rules proposed for readoption with amendments, repeals, and new rules that provide additional privileges due to technology and electronic communications, as the rules are necessary and the changes reflect recent changes within the Department.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments, repeals, and new rules. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments, repeals, and new rules is met by the Department through the established budget with funds allocated by the State and has no external economic impact.

Federal Standards Statement

The rules proposed for readoption with amendments, repeals, and new rules 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 10. The rules proposed for readoption with amendments, repeals, and new rules 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, repeals, and new rules will cause neither the generation nor the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments, repeals, and new rules will 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, repeals, and new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments, repeals, and new rules affect 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, repeals, and new rules will have no impact on housing affordability and there is an extreme unlikelihood that the rules proposed for readoption with amendments, repeals, and new rules would evoke a change in the average costs associated with housing. The rules proposed for readoption with amendments, repeals, and new rules concern the mail, visits, and telephone privileges in New Jersey State correctional facilities.

Smart Growth Impact Development Analysis

The rules proposed for readoption with amendments, repeals, and new rules will have no impact on the achievement of smart growth and there is an extreme unlikelihood the rules proposed for readoption with amendments, repeals, and new rules will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules proposed for readoption with amendments, repeals, and new rules concern the mail, visits, and telephone privileges in New Jersey State correctional facilities.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of Corrections has evaluated this rulemaking and determined that it will not have an impact on pretrial detention or sentencing. The rules proposed for readoption with amendments, repeals, and new rules concern the mail, visits, and telephone privileges in New Jersey State correctional facilities. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:18.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10A:18-1.4, 2.1, 3.1, 4.1, 5.1, 7.1, and 7.9.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10A:18-1.1 Purpose

(a) The purpose of this chapter is to establish guidelines for:

1. - 4. (No change.)

5. Inmates sending and receiving electronic correspondence, including email, e-photos, and e-videos;

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

7. Inmate remote video visitation;

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

10A:18-1.3 Definitions

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

...

“Electronic correspondence” means content sent or received electronically, including email, e-photos, e-videos, e-books, and other similar materials, sent over a secure computer network through a contracted electronic communications service provider approved kiosk system and software.

...

“Obscene material” means any description, narrative account, display, depiction of a specified anatomical area or specified sexual activity contained in, or consisting of, a picture or other representation, publication, sound recording, live performance, or film, which by means of posing, composition, format, or animated sensual details, emits sensuality with sufficient impact to concentrate prurient interest on the area or activity.

...

“Pornography” means printed or visual material containing the explicit description or display of sexual organs or activity, intended to stimulate erotic, rather than aesthetic or emotional feelings. This term includes the depiction of erotic behavior (as in pictures, speech, or writing) and/or acts in a sensational manner, so as to arouse a quick intense emotional reaction.

...

“Sexually explicit” means any communication, language, or material, including a photographic or video image portraying the nude human body, or parts thereof, in such a pose or posture that the viewer’s attention or concentration is focused on the female breasts or male or female genitals that are exposed or provocatively emphasized, or both, or that relate to, or describe, sexual conduct.

...

“Video gram” means a video message electronically sent or received over a secure computer network through a contracted electronic communications service provider.

...

“Video visitation” means a visit between an inmate and a visitor conducted virtually over a secure computer network through a contracted electronic communications service provider.

...

(b) Definitions specific to inmates in the Adult Diagnostic Treatment Center (ADTC) are located at N.J.A.C. 10A:18-9.1.

10A:18-1.4 Notice to inmates of rule changes

(a) Notwithstanding the requirements of the Administrative Procedures Act (APA), the Department shall inform inmates of new or revised rules regarding telephones and mailing and receipt of publications, packages, and correspondence, including legal correspondence. Inmates shall be informed of such changes by the Department as follows:

1. Posting appropriate notices of rule changes in each housing area and other areas of the correctional facility;

2. Providing each Inmate Liaison Committee notice of new or revised rules, who shall be responsible for notifying the inmate population;

3. Providing new inmates a description and explanation of the rules during the admission orientation program; and

4. Including new or revised rules in the next revision of the facility and unit Inmate Handbook.

(b) Inmates are permitted to receive and retain correspondence that complies with the rules set forth in this chapter and that does not threaten the safe, secure, discipline, or orderly operation of the correctional facility, or facilitate criminal activity, or is otherwise prohibited by law.

SUBCHAPTER 2. CORRESPONDENCE

10A:18-2.1 (Reserved)

10A:18-2.4 Correspondence in language other than English

All State correctional facilities shall permit incoming and outgoing correspondence **and electronic correspondence** of the inmates to be in a language other than English.

10A:18-2.6 Inspection and identification of incoming correspondence

(a)-(f) (No change.)

(g) Incoming correspondence **and electronic correspondence** shall be opened and inspected for contraband, but it shall not be read unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 10A:18-2.14. If there is reason to believe that the correspondence contains disapproved content, the correspondence shall be read only upon prior authorization of the Administrator, or designee.

(h) (No change.)

(i) Incoming electronic correspondence, including emails, e-photos, e-books, and e-videos, are actively viewed and monitored. Delivery of electronic correspondence may be delayed, as its content may be pending review and approval. In addition, if an inmate's privileges and access to electronic communications devices and sending or receiving electronic correspondence are suspended for any reason, such correspondence shall not be sent or delivered.

(j) Electronic correspondence, as set forth at N.J.A.C. 10A:18-6.6(i), should not be used by inmates or attorneys to communicate. In accordance with the service provider's terms of service, all electronic mail shall be viewed and monitored, and the content shall not be treated as legal mail, and shall not be handled as privileged or confidential.

10A:18-2.7 Inspection of outgoing correspondence

(a)-(f) (No change.)

(g) Outgoing electronic correspondence, including electronic emails, e-photos, e-books, and e-videos, are actively viewed and monitored. Electronic correspondence may be delayed as its content may be pending review and approval.

10A:18-2.9 Identification of sender of outgoing correspondence

(a) - (d) (No change.)

(e) Electronic emails, e-photos, e-books, and e-videos are actively viewed and monitored. Delivery of electronic correspondence may be delayed as its content may be pending review and approval.

(f) If an inmate's privileges for electronic communications devices and electronic correspondence are suspended or restricted for any reason, related correspondence shall not be sent or delivered.

10A:18-2.12 Correspondence processing

(a) Properly identified incoming correspondence **and electronic correspondence** (see N.J.A.C. 10A:18-2.6) shall be distributed to inmates, and outgoing properly identified correspondence **and electronic correspondence** (see N.J.A.C. 10A:18-2.9) shall be **transmitted or** sent to the post office **or addressee** within one day of receipt in the mail room, excluding weekends, holidays, and during emergency incidents.

(b) Inmates shall not be involved in the processing of either incoming or outgoing correspondence **or electronic correspondence**.

10A:18-2.14 Disapproved correspondence **and electronic correspondence**

(a) Any correspondence for an inmate may be withheld in the mail room or taken from an inmate's possession by the correctional facility Administrator, designee, or custody staff if it falls within one of the following categories:

1.-4. (No change.)

5. The correspondence incites violence or destructive or disruptive behavior toward:

i.-iii. (No change.)

iv. Correctional facility protocols, programs, or procedures; [or]

6. The correspondence contains material, which, based upon the experience and professional expertise of correctional administrators and judged in the context of a correctional facility and its paramount interest in maintaining safety, security, order, and rehabilitation:

i. (No change.)

ii. Lacks, as a whole, serious literary, artistic, political, or scientific value; [and]

iii. Depicts, in a patently offensive way, sexual conduct, including patently offensive representations or descriptions of ultimate sexual acts, masturbation, excretory functions, lewd exhibition of the genitals, child pornography, sadism, bestiality, [or] masochism[.], **extreme close-up photos, any touching, manipulation, spreading, or opening of the genitals or buttocks (any gender), pornography, or sexually explicit material; or**

iv. **Security threat group (STG) references or indicators;**

7. Inmates shall not agree to, and shall not authorize or encourage any third-party to:

i. **Use the electronic correspondence service to transmit any content that is unlawful, defamatory, harassing, abusive, fraudulent, obscene, or is otherwise objectionable as reasonably determined by the custody officer;**

ii. **Transmit any content that infringes upon another party's intellectual property rights or other proprietary, contractual, or fiduciary rights or obligations;**

iii. **Prevent others from using the electronic correspondence service;**

iv. **Use the electronic correspondence service for any fraudulent or inappropriate purpose; or**

v. Act in any way that violates, or is a violation of prohibited acts at N.J.A.C. 10A:4-1.1 or the Inmate Handbook policies;

8. Violation of any of the rules regarding correspondence or electronic correspondence may result in non-delivery of the correspondence or electronic correspondence and/or attachment, emails, e-photos, and/or e-videos. The New Jersey Department of Corrections (NJDOC) reserves the right to investigate an individual's use of the electronic correspondence system in order to determine whether a violation has occurred or to comply with any applicable law, regulation, legal process, or governmental request (see N.J.A.C. 10A:18-6.6(i)); and

9. The NJDOC reserves the right to access, read, preserve, and disclose any information as it reasonably believes is necessary to:

i. Detect, prevent, or otherwise address fraud or security issues (including, without limitation, the filtering of messages and attachments);

ii. Satisfy any applicable law, regulation, legal process, or governmental request;

iii. Enforce this chapter, including investigation of potential violations thereof;

iv. Respond to user support requests; and

v. Protect the rights, property, or safety of the vendor and the facilities.

10A:18-2.16 Procedures for handling withheld or **discarded** correspondence

(a) (No change.)

(b) When incoming electronic correspondence has been withheld from an inmate, it shall be returned to the sender, together with a notice from the vendor's electronic system to the inmate that the material has been found to violate the Department of Corrections' rules governing electronic correspondence.

(c) If only one item within a multipart electronic correspondence violates this chapter, only that item will be discarded/deleted from the correspondence, together with a notice from the vendor's electronic system to the inmate that the material has been found to violate the Department of Corrections' rules governing electronic correspondence.

10A:18-2.18 Appeal and final disposition

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

(f) When an electronic correspondence has been discarded/deleted, returned to sender, or when correspondence has been removed from the inmate's possession, the inmate may appeal the action of the custody review team to the Administrator within 10 calendar days of the date of notice.

(g) The inmate shall be permitted to submit documents, in writing, that state the challenged electronic correspondence does not violate policy.

(h) If the decision is upheld to discard/delete or return the correspondence to the sender, the decision shall contain a specific finding that the correspondence violates this chapter.

10A:18-2.24 Cost of mailing correspondence for nonindigent inmates

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

[(d) In the event a nonindigent inmate is transferred to another correctional facility within the Department of Corrections, the Business Manager or designee of the sending correctional facility shall notify the Business Manager of the receiving correctional facility in writing of the remaining amount due the sending correctional facility for mailing correspondence. The notification shall also request that funds continue to be removed from the nonindigent inmate's account until reimbursement has been made in full. The receiving correctional facility shall issue a check for the funds collected from the inmate and forward the check to the sending correctional facility.

(e) Whenever a nonindigent inmate's account exceeds a negative balance of \$ 25.00, the Administrator or designee shall be notified.]

[(f)] **(d)** (No change in text.)

[(g) The Business Manager or designee shall notify in writing the Central Office Revenue Unit (CORU) of the remaining amount due the correctional facility. The CORU shall take whatever action is possible to collect the mailing costs due and forward same to the correctional facility.]

SUBCHAPTER 3. LEGAL CORRESPONDENCE

10A:18-3.1 (Reserved)

10A:18-3.4 Inspection of incoming legal correspondence

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

(f) The New Jersey Department of Corrections (NJDOC) reserves the right to access, read, preserve, and disclose any information as it reasonably believes is necessary to:

1. Detect, prevent, or otherwise address fraud or security issues (including, without limitation, the filtering of messages and attachments);

2. Satisfy any applicable law, regulation, legal process, or governmental request;

3. Enforce this chapter, including investigation of potential violations thereof;

4. Respond to user support requests; or

5. Protect the rights, property, or safety of the vendor and the facilities.

(g) Incoming correspondence shall be opened and inspected for contraband, but it shall not be read, unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 10A:18-2.14. If there is reason to believe that the correspondence contains disapproved content, the correspondence shall be read only upon prior authorization of the Administrator, or designee.

(h) Incoming electronic correspondence, including electronic emails, e-photos, e-books, and e-videos are actively viewed and monitored in accordance with the service provider's terms of service. Delivery of electronic correspondence may be delayed as its content may be pending review and approval. In addition, if an inmate's privileges and access to electronic communications devices and sending or receiving electronic correspondence are suspended for any reason, such correspondence shall not be sent or delivered.

SUBCHAPTER 4. PUBLICATIONS

10A:18-4.1 (Reserved)

10A:18-4.5 Inspection of incoming publications

(a) Each incoming publication, **including electronic publications**, shall be opened and inspected for contraband, but shall not be read unless there is reason to believe that the publication contains disapproved content (see N.J.A.C. 10A:18-4.9) and then only upon the prior authorization of the Administrator, or designee. **If there is reason to believe that the publication contains disapproved content, the publication shall be read only upon prior authorization of the Administrator, or designee.**

(b) Incoming electronic publications are actively viewed, monitored, and read in accordance with the service provider's terms of service. Delivery of electronic publications may be delayed as its content may be pending review and approval. In addition, if an inmate's privileges and access to electronic communications devices and sending or receiving electronic publications are suspended for any reason, such publications shall not be sent or delivered (see N.J.A.C. 10A:18-2.4(i) and (j) for electronic publications).

[(b)] (c) (No change in text.)

SUBCHAPTER 5. PACKAGES

10A:18-5.1 (Reserved)

SUBCHAPTER 6. VISIT[S] PRIVILEGES

10A:18-6.7 Attorneys and court related personnel visits

(a)-(d) (No change.)

(e) Form 292-I Request for Attorney-Client Contact Visit, is available locally in each correctional facility, and may be used to verify the inmate's desire to meet with the requesting attorney in the context of an attorney-client relationship.

(f)-(i) (No change.)

10A:18-6.22 Video visit availability, monitoring, restrictions, and limitations

(a) Video visits are available only in a limited number of correctional facilities, at this time, that have the network capacity and necessary vendor-provided equipment. Inmates should check their correctional facility and unit specific Inmate Handbooks for availability, as well as any additional restrictions or limitations that may apply.

(b) Video visits are monitored and recorded for the entire video visit session. Conduct that is inappropriate in any manner, including indecent exposure will not be tolerated. If, at any time during a video visit, the custody officer deems an inmate's conduct is inappropriate, the video session will be subject to immediate termination without warning. If the video session is terminated for inappropriate conduct, related costs will not be refunded.

(c) Inmates shall not agree to, authorize, or encourage any third-party to:

1. Use the video visit service to transmit any content that is unlawful, defamatory, harassing, abusive, fraudulent, obscene, or is otherwise objectionable; or

2. Use the video visit service for any fraudulent or inappropriate purpose, or in violation of prohibited acts at N.J.A.C. 10A:4-1.1 or the Inmate Handbook. Violation of this paragraph may result in immediate termination of an inmate's, or other user's account, and may subject an inmate, or other user, to State and Federal penalties and other legal consequences.

(d) Video visits service should not be used by attorneys to communicate with incarcerated individuals, as the content of the visit will not be treated as privileged and confidential.

SUBCHAPTER 7. BEDSIDE, PRIVATE VIEWING, AND FUNERAL VISITS

10A:18-7.1 (Reserved)

10A:18-7.9 Availability of video visits

Video visits, as set forth at N.J.A.C. 10A:18-6.22, may be available for bedside, private viewing, and funeral visits, based on the availability of the necessary technology.

SUBCHAPTER 8. TELEPHONE PRIVILEGES

10A:18-8.2 Notice to inmates—telephone privileges

(a) (No change.)

[(b) Inmates shall be informed of new or revised rules and procedures regarding telephone calls by posting appropriate notices in each housing area and other areas of the correctional facility.

(c) Notice of new or revised rules and procedures regarding telephone calls shall be given to each Inmate Liaison Committee. These Committees shall be responsible for notifying the inmate population.

(d) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding telephone calls.

(e) New or revised rules and procedures regarding telephone calls shall be incorporated into the next revision of the Inmate Handbook.]

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

SUBCHAPTER 9. RESTRICTIONS ON SEXUALLY ORIENTED MATERIALS AT THE ADULT DIAGNOSTIC AND TREATMENT CENTER (A.D.T.C.)

10A:18-9.3 Procedures for notifying inmates of the withholding and removal of sexually oriented materials

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

(d) In the event an inmate refuses to acknowledge, in writing, their knowledge/understanding of the rules pertaining to the receipt, possession, distribution, or exhibition of sexually oriented materials, **the inmate's file shall be updated by an NJDOC staff member indicating: the date, the staff member's name, and the staff member's signature; and** the following shall be noted in writing:

"Inmate refuses to acknowledge in writing his/her knowledge/understanding of the rules pertaining to the receipt, possession, distribution or exhibition of sexually oriented materials."

Name and number of inmate

Date

Signature of Designated Staff Member

Printed Name of Designated Staff Member]

(e) (No change.)