

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. C

CORRECTIONS

THE COMMISSIONER

News Media and Public Information Dissemination

Proposed Readoption with Amendments: N.J.A.C. 10A:19

Proposed Repeal and New Rule: N.J.A.C. 10A:19-1.4

Proposed Repeal: N.J.A.C. 10A:19-1.2

Authorized By: Victoria L. Kuhn, Esq., Acting 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 2022-066.

Submit written comments by July 15, 2022, 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 Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:19 was scheduled to expire on April 24, 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 October 21, 2022. The Department has reviewed these rules and, with the exception of the proposed amendments, 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 and a repeal at this time.

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 contains general provisions for the chapter including the purpose, definitions particular to this chapter, and related forms information.

The Department proposes to replace “establish policies and procedures” with “set forth” at N.J.A.C. 10A:19-1.1(a) and to repeal N.J.A.C. 10A:19-1.2, Scope, because these rules have been in place for many years and apply to all departmental units.

The forms listed at N.J.A.C. 10A:19-1.4 are for internal purposes only and are not used by the public. The Department, therefore, proposes to repeal and replace the existing language with the following: “Forms related to public information are available internally within the Department of Corrections and are used for inmate consent for the news media and as a news media representative/freelancer agreement.”

In addition to removing form numbers 283-I and 283-II at N.J.A.C. 10A:19-1.4, the following amendments to generalize references to these internal DOC forms are proposed at:

- N.J.A.C. 10A:19-3.1(a) replace “by signing Form 283-I” with “in writing on the.”
- N.J.A.C. 10A:19-3.5(a) and (b) replace “Form 283-I Inmate Consent for the News Media” with “the inmate consent form.”
- N.J.A.C. 10A:19-3.7(a) replace “Form 283-II” with “the.”
- N.J.A.C. 10A:19-3.7(b) remove “Form 283-II and Form 283-I Inmate Consent for the News Media” with “a signed inmate consent form.”
- N.J.A.C. 10A:19-3.7(c) replace “Forms 283-I and 283-II” with “all related inmate consent and media agreements” and replace the word “given” with the word “provided.”

Subchapter 2 includes information regarding the release of departmental information from, and the responsibilities of, the Office of Public Information including, the types of information addressed, such as newsworthy events, emergency situations, and public access to information on the Department’s website.

At N.J.A.C. 10A:19-2.1(a), the Department proposes to simplify the structure of the section to improve readability by replacing the words “providing accurate and timely information regarding NJDOC events, plans functions, and services, as directed by the Commissioner to” with “for dissemination of all information to;” and removing the text of paragraph (a)1, as this language is more related to performance goals, and it is not rule-oriented. In addition, the Department also proposes to condense subparagraphs (a)1i through v into subsection (a). Paragraphs (a)2, 3, and 4 are merged into newly codified subsection (b); in addition, existing N.J.A.C. 10A:19-2.2(a) is proposed to be relocated as N.J.A.C. 10A:19-2.1(c). N.J.A.C. 10A:19-2.2 will be reserved for a potential future rulemaking.

Subchapter 3 includes rules regarding news media contact with correctional facilities and inmates and inmate consent for contact with the media. The Department proposes to update a cross-reference at N.J.A.C. 10A:19-3.4(c), as it was modified in a separate rulemaking from N.J.A.C. 10A:4-12 to 10A:4-4.1.

Social Impact

The rules proposed for readoption with amendments, new rule, and repeals provide valuable information to inmates, DOC staff, and others about interactions with the media and the type of information provided to the media by the Department. The Department anticipates a positive social impact as a result of the rules proposed for readoption with amendments, new rule, and repeals.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments, new rule, and repeals. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments, new rule, and repeals 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, new rule, and repeals 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, new rule, and repeals 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, new rule, and repeals will cause neither the generation nor the loss of any jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments, new rule, and repeals will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments, new rule, and repeals 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, new rule, and repeals affect inmates, Department staff, the media, 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, new rule, and repeals shall have no impact on housing affordability and there is an extreme unlikelihood that the rules proposed for readoption with amendments, new rule, and repeals would evoke a change in the average costs

associated with housing. The rules proposed for readoption with amendments, new rule, and repeals concern inmates, the news media, and the New Jersey Department of Corrections.

Smart Growth Impact Development Analysis

The rules proposed for readoption with amendments, new rule, and repeals will have no impact on the achievement of smart growth and there is an extreme unlikelihood that they 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, new rule, and repeals concern inmates, the media, and the New Jersey Department of Corrections.

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, sentencing, probation, or parole policies concerning adults and juveniles in the State. 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:19.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10A:19-1.1 Purpose

(a) The purpose of this chapter is to [establish policies and procedures] **set forth** provisions for:
1.- 2. (No change.)

10A:19-1.2 [Scope] (Reserved)

[This chapter is applicable to all administrative units within the New Jersey Department of Corrections.]

[10A:19-1.4 Forms

(a) The following forms related to public information 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 and are to be used for:

1. 283-I Inmate Consent for the News Media; and as a
2. 283-II News Media Representative/Freelancer Agreement.]

10A:19-1.4 Forms

Forms related to public information are available internally within the Department of Corrections and are to be used for inmate consent for the news media and as a news media representative/freelancer agreement.

SUBCHAPTER 2. PUBLIC INFORMATION DISSEMINATION

10A:19-2.1 Office of Public Information

(a) The Office of Public Information, within the Office of the Commissioner of the New Jersey Department of Corrections, is responsible for [providing accurate and timely information regarding NJ DOC events, plans functions, and services, as directed by the Commissioner to:

1. Maintaining and increasing public knowledge of the Department of Corrections by developing and disseminating information relative to correctional philosophy and programming to the following:

- i. The] **dissemination of all information to: the** news media;
- [ii. The] general public;
- [iii. Governmental] **governmental** agencies;
- [iv. Community] **community** and social organizations; and
- [v.] Department of Corrections personnel.

[2.] (b) [Publicizing the effectiveness of] **The Office of Public Information is also responsible for creating an awareness of and publicizing information about, innovative programs and services;**

[3. Responding to] **referring** public inquiries and complaints **to the appropriate DOC staff;** and

[4. Coordinating] **coordinating** all public communications including, but not limited to:

- [i. Speaking] **speaking** engagements;
- [ii. Interviews;
- iii. Press] **interviews; press** releases;
- [iv. Tour groups;
- v. Annual] **media tours; annual** reports; and
- [vi.] Department of Corrections pamphlets **and brochures.**

[10A:19-2.2 Responsibilities of the Director]

[(a)] (c) The Office of Public Information, [New Jersey Department of Corrections, is managed by the Director of Communications] **in consultation with the Commissioner**, or designee, [who] shall be responsible for:

[1. Being accessible to information sources within the Department of Corrections in order to receive and gather information;

2. Keeping abreast of major trends and events within the Department of Corrections;

3. Disseminating accurate and often instant information concerning emergencies, Departmental plans, programs, services and activities to the following:

- i. The news media;
- ii. The general public;
- iii. Governmental agencies;
- iv. Community and social organizations; and
- v. Department of Corrections personnel.]

[4. Preparing] **preparing** news releases, fact sheets, and reports describing and explaining events, policies, and activities of the Department of Corrections;

[5. Conferring regularly with the Department of Corrections Commissioner or designee;

6. Arranging] **arranging** for news media representative and/or freelancer interviews with personnel and inmates within the Department of Corrections; and

[7. Ensuring] **ensuring** that current and accurate information is available on the Department of Corrections website at [www.state.nj.us/corrections]
www.state.nj.gov/corrections.

10A:19-2.2 (Reserved)

10A:19-2.8 Public access to information

(a) Members of the public may obtain general information and/or contact the Department of Corrections by:

1. Accessing the official Department of Corrections website at [\[www.state.nj.us/corrections\]](http://www.state.nj.us/corrections) www.state.nj.gov/corrections. Informational categories available on the website include, but are not limited to, offender search and offender statistics, correctional facility names, locations, and phone numbers, in the news press releases, New Jersey Administrative Code Title 10A, Department of Corrections rule proposals, frequently asked questions, careers in corrections, and information regarding the Open Public Records Act (OPRA);
2. - 3. (No change.)

SUBCHAPTER 3. NEWS MEDIA REPRESENTATIVE AND/OR FREE-LANCER CONTACTS WITH CORRECTIONAL FACILITIES AND INMATES

10A:19-3.1 Interviewing and photographing inmates by news media representatives and/or freelancers

(a) An inmate may be photographed, interviewed, recorded, filmed, and/or videotaped by news media representatives and/or freelancers:

1. (No change.)
2. If the inmate indicates approval [by signing Form 283- Inmate Consent for the News Media], **in writing, on the inmate consent form**; and
3. (No change.)

10A:19-3.4 Decision on news media representative and/or freelancer requests

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

(c) Inmate contact visits with news media representatives and/or freelancers shall be prohibited when the inmate has been found guilty of a prohibited act identified in a zero-tolerance policy as defined [in] **at** N.J.A.C. 10A:1-2.2 and established at N.J.A.C. 10A:4-[12]**4.1**. In those cases in which contact visits have been terminated, every effort will be made to provide a noncontact visit consistent with the orderly operation of the correctional facility.

10A:19-3.5 Inmate consent

(a) When a request by the news media representative and/or freelancer to photograph, interview, record, film and/or videotape an inmate(s) has been approved by the Office of Public Information and the correctional facility Administrator, a staff member designated by the Administrator shall provide the inmate with [Form 283-I Inmate Consent for the News Media] **the inmate consent form** for the inmate's review.

(b) The inmate shall indicate approval of the news media representative and/or freelancer request by signing [Form 283-I Inmate Consent for the News Media] **the inmate consent form** in the presence of the designated staff member.

(c) (No change.)

10A:19-3.7 News media and/or freelancer agreement

(a) Upon arrival at the correctional facility, the news media representative and/or freelancer shall present valid press credentials or other identification approved by the Office of Public Information, New Jersey Department of Corrections, and complete and sign [Form 283-II] **the** News Media Representative/Freelancer Agreement.

(b) Photographing, interviewing, recording, filming, or videotaping of an inmate by any news media representative and/or freelancer shall not be permitted to take place prior to the signing of [Form 283-II] **the** News Media Representative/Freelancer Agreement and the completion of [Form 283-I Inmate Consent for the News Media] **a signed inmate consent form.**

(c) The originals of [Forms 283-I and 283-II] **all related inmate consent and media agreements** shall be retained by the correctional facility. A copy of these forms shall be [given] **provided** to the news media representative and/or freelancer, and a copy shall be forwarded to the Office of Public Information, New Jersey Department of Corrections.