

2. Simple assaults committed by juveniles, staff, or visitors, which become aggravated assaults if committed upon any law enforcement officer acting in the performance of his or her duties while in uniform or while exhibiting evidence of his or her authority, pursuant to N.J.S.A. 2C:12-1a and b;

3. (No change.)

4. The introduction of, or providing a juvenile with, any weapon, tool, or other item [which] **that** could be used in an escape.

13:95-21.14 Office of Investigations reporting procedures

(a) (No change.)

(b) The Office of Investigations shall ensure that all juvenile acts [which] **that** may constitute crimes of the first, second, third, or fourth degree [under] **pursuant to** the Criminal Code of the State of New Jersey, N.J.S.A. 2C:1-1 et seq., requiring written prosecutor notification shall be timely forwarded to the appropriate county prosecutor.

(c) (No change.)

(d) The Office of Investigations shall be responsible to ensure that all investigative reports shall be made available upon request to the:

1. Executive Director; **and**

2. Deputy Executive Director[; and] **of Operations.**

[3. Director of Operations.]

(a)

JUVENILE JUSTICE COMMISSION

Juvenile Discipline

Proposed Readoption with Amendments: N.J.A.C. 13:101

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Matthew J. Platkin, Attorney General and Chair, through Daniel S. Hafetz, Attorney General Designee.

Authority: N.J.S.A. 52:17B-170.e, 52:17B-171, 52:17B-176, and 52:17B-182 through 186.

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

Proposal Number: PRN 2025-022.

Submit written comments by May 16, 2025, to:

Christina O. Broderick
Chief, Legal & Regulatory Affairs
New Jersey Juvenile Justice Commission
1001 Spruce Street-Suite 202
Trenton, New Jersey 08638
or electronically at: regulatory.affairs@jjc.nj.gov

The agency proposal follows:

Summary

The Juvenile Justice Commission (Commission) is the New Jersey agency responsible for planning, policy development, and provision of services in the juvenile justice system. For those youth within its care and custody, the Commission seeks to ensure that its facilities maintain a safe and respectful environment, while at the same time delivering effective educational and rehabilitative services individually tailored to each youth, with the goal of improving outcomes for young people involved with the juvenile justice system, their families, and their communities.

Part of the Commission's responsibilities include assuming care and custody of youth committed or transferred to its custody, and management and operation of State juvenile facilities and programs. As such, the Commission has developed standards for a disciplinary system that promotes positive behavior, discourages negative behavior, and ensures fairness and due process for residents. These provisions, which address notification, rights, violations, reporting, corrective action, hearings, and appeals, are set forth at N.J.A.C. 13:101, Juvenile Discipline.

Pursuant to N.J.S.A. 52:14B-5.1.c, N.J.A.C. 13:101 was scheduled to expire on February 5, 2025. Therefore, the filing of this notice of rules proposed for readoption by the Commission with the Office of

Administrative Law extended the expiration date 180 days to August 4, 2025, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The Commission has reviewed the rules proposed for readoption with amendments and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Accordingly, in addition to minor clarifying and technical amendments that do not affect the substantive meaning of the rules, the Commission proposes to readopt the rules at N.J.A.C. 13:101 in their entirety, with proposed amendments at N.J.A.C. 13:101-1, 2, 4, 5, 6, and 7. The substantive provisions of the rules proposed for readoption by the Commission are summarized below.

N.J.A.C. 13:101-1 sets forth general provisions, including the chapter's purpose (N.J.A.C. 13:101-1.1); scope (N.J.A.C. 13:101-1.2); relevant definitions (N.J.A.C. 13:101-1.3); forms (N.J.A.C. 13:101-1.4); and confidentiality and use of juvenile information (N.J.A.C. 13:101-1.5). Several minor technical changes are proposed to this subchapter. The Commission proposes to amend or delete various definitions at N.J.A.C. 13:101-1.3 for clarification and consistency, and add several terms including "constructive custody" and "panel". The Commission also proposes an update to the list of forms at N.J.A.C. 13:101-1.4(a) to remove a room restriction form that is no longer utilized. The term "Chief Investigator" is proposed for amendment to clarify that the Chief Investigator is charged with oversight and management for overall operation and supervision. "Juvenile" is proposed for amendment to clarify who is and can be a juvenile pursuant to this chapter. The term "Director of Custody Operations" is proposed for deletion, as is the term "Program Separation Unit." The term "shift supervisor" is proposed for amendment to clarify that it applies to a custody supervisor of the rank of sergeant, or above. The terms "constructive custody" and "panel" are proposed to be added.

N.J.A.C. 13:101-2 addresses publication of rules, including notification to juveniles about rules and regulations (N.J.A.C. 13:101-2.1); review of facility rules (N.J.A.C. 13:101-2.2), which is proposed for amendment to add that a designee of the Superintendent shall keep an ongoing rule review; and promulgation of rules (N.J.A.C. 13:101-2.3), which is proposed for amendment to clarify that the rules of the facility shall be approved by the Deputy Executive Director of Operations. Several minor technical changes are proposed to this subchapter. The Commission proposes an amendment to the notification requirement at N.J.A.C. 13:101-2.1(a) to specify that juveniles shall receive a copy of the handbook within one business day of admission, rather than at the time of reception. In addition, the Commission proposes to delete N.J.A.C. 13:101-2.1(b) regarding issuance of resident handbooks, which is addressed in other Commission regulations.

N.J.A.C. 13:101-3 addresses juvenile rights and responsibilities including notification to juveniles of their rights and responsibilities (N.J.A.C. 13:101-3.1). Several minor technical changes are proposed to this subchapter.

N.J.A.C. 13:101-4 addresses violations including specifying violations (N.J.A.C. 13:101-4.1); mechanisms for responding to violations (N.J.A.C. 13:101-4.2); and reports to the prosecutor on violations (N.J.A.C. 13:101-4.3). In addition to various minor technical changes throughout this subchapter, the Commission proposes to amend N.J.A.C. 13:101-4.1 to indicate that a juvenile may (rather than shall) be subject to disciplinary action and include that leaving the constructive authority of the Commission also constitutes escape. The Commission further proposes to amend N.J.A.C. 13:101-4.2(a) to indicate that the witnessing staff member will determine whether to handle a violation through a full disciplinary hearing or immediate corrective action and amend N.J.A.C. 13:101-4.2(b) to indicate that the staff determination is subject to appeal by the juvenile.

N.J.A.C. 13:101-5 provides for immediate corrective action procedures, including immediate corrective reports (N.J.A.C. 13:101-5.1); immediate corrective action conferences (N.J.A.C. 13:101-5.2); authorized immediate corrective actions (N.J.A.C. 13:101-5.3); imposition of immediate corrective action (N.J.A.C. 13:101-5.4); records of immediate corrective action (N.J.A.C. 13:101-5.5); and referral to the disciplinary hearing officer for a disciplinary hearing (N.J.A.C. 13:101-5.6). In addition to minor technical changes to this subchapter, the Commission proposes to amend N.J.A.C. 13:101-5.3 to delete facility

restriction as a possible immediate corrective action, and add restorative approaches approved by the Executive Director as an available immediate corrective action. The Commission also proposes to amend N.J.A.C. 13:101-5.5 to indicate that immediate corrective information will also be presented to the panel that reviews eligibility for release. The Commission additionally proposes an amendment that a notice of violation and related documents will be forwarded to the Superintendent, then to the disciplinary hearing officer, if warranted, at N.J.A.C. 13:101-5.6(b).

N.J.A.C. 13:101-6 addresses disciplinary proceedings, describing the designation and authority of the disciplinary hearing officer (N.J.A.C. 13:101-6.1); disciplinary reports (N.J.A.C. 13:101-6.2); use immunity (N.J.A.C. 13:101-6.3); investigations (N.J.A.C. 13:101-6.4); further investigation of charges (N.J.A.C. 13:101-6.5); scheduling disciplinary hearings (N.J.A.C. 13:101-6.6); review of postponed cases (N.J.A.C. 13:101-6.7); failure to adhere to time limits (N.J.A.C. 13:101-6.8); a juvenile's right to appear at a disciplinary hearing (N.J.A.C. 13:101-6.9); in absentia hearings (N.J.A.C. 13:101-6.10); aid in presentation of a juvenile's case (N.J.A.C. 13:101-6.11); opportunity to call witnesses and present evidence (N.J.A.C. 13:101-6.12); confrontation and cross examination (N.J.A.C. 13:101-6.13); evidence required for sustaining charges (N.J.A.C. 13:101-6.14); modification of charge during disciplinary hearings (N.J.A.C. 13:101-6.15); disciplinary consequences (N.J.A.C. 13:101-6.16); suspending sanctions (N.J.A.C. 13:101-6.18); guidance (N.J.A.C. 13:101-6.19); transfers (N.J.A.C. 13:101-6.20); disciplinary decisions (N.J.A.C. 13:101-6.21); disciplinary records (N.J.A.C. 13:101-6.22); expungement (N.J.A.C. 13:101-6.23); and records of disciplinary reports (N.J.A.C. 13:101-6.24).

In addition to minor technical changes, the Commission proposes to delete the reporting staff member as a person who may deliver a notice of violation at N.J.A.C. 13:101-6.2. The Commission also proposes to amend N.J.A.C. 13:101-6.20(a) to clearly distinguish the disciplinary process for community programs. The Commission also proposes to add reference to the panel as a group who will receive notice of a disciplinary decision at N.J.A.C. 13:101-6.21(c) and update the language regarding disciplinary records at N.J.A.C. 13:101-6.22. The Commission also proposes to update and remove language regarding expungement records at N.J.A.C. 13:101-6.23 to align with the Commission's current use of an electronic system.

N.J.A.C. 13:101-7 addresses appeals of disciplinary decisions including the time limit to file an appeal (N.J.A.C. 13:101-7.1); processing an appeal (N.J.A.C. 13:101-7.2); stay of consequences of an appeal (N.J.A.C. 13:101-7.3); investigation of an appeal (N.J.A.C. 13:101-7.4); disposition of an appeal (N.J.A.C. 13:101-7.5); notification to a juvenile of the appeal results (N.J.A.C. 13:101-7.6); and appeals resulting in rehearings (N.J.A.C. 13:101-7.7). In addition to several minor technical changes, the Commission proposes to delete N.J.A.C. 13:101-7.4(d) regarding polygraph examinations, which the Commission does not use.

As the Commission has provided a 60-day comment period on the notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Commission is committed to providing support and opportunities designed to help youth grow and thrive and to become independent, productive, and law-abiding citizens. As the agency charged with the care and custody of young people who are adjudicated delinquent or convicted, the Commission seeks to ensure that those youth who are within its care are treated consistent with the Commission's mission, vision, and core values. The proposed amendments clarify and modify some of the standards applicable to juvenile discipline, which aims to ensure fairness and due process, promote prosocial behavior, and discourage negative behavior. As such, the rules proposed for readoption with amendments are expected to enhance the positive social impact the existing rules already have on the young people detained within the Commission's secure care facilities, along with their families.

Economic Impact

The costs associated with implementing these proposed amendments are met through the established budget process with funds allocated by the State. The Commission anticipates that the rules proposed for readoption

with amendments will not have an economic impact on the Commission or any other department or agency of State government.

Federal Standards Statement

A Federal standards analysis is not otherwise required because the rules proposed for readoption with amendments are not proposed pursuant to the authority of, or in order to implement, comply with, or participate in any program established pursuant to Federal law or pursuant to a State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The rules proposed for readoption with amendments are not anticipated to result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because the rules proposed for readoption with amendments concern only discipline within Commission facilities. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on the affordability of housing in New Jersey and will neither increase nor decrease the average costs of housing because the rules proposed for readoption with amendments concern only discipline within Commission facilities.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth and there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in housing production in Planning Area 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey, because the rules proposed for readoption with amendments concern only discipline within Commission facilities.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for readoption with amendments are not expected to have an impact on pretrial detention, sentencing, probation, or parole policies concerning youth or adults in the State. Decisions related to pretrial detention, sentencing, probation, and parole are outside the scope of N.J.A.C. 13:101, which is limited to establishing disciplinary rights and procedures for youth already detained within Commission facilities and programs. However, because the majority of youth involved in the juvenile justice system in New Jersey are youth of color, through establishing disciplinary standards that promote positive behavior, discourages negative behavior, and ensure fairness and due process for residents, N.J.A.C. 13:101 ensures that these justice-involved youth receive encouragement and fair treatment which may help improve outcomes and reduce recidivism once young people leave the Commission's facilities. Therefore, it is anticipated that the rules proposed for readoption with amendments, which establish a youth disciplinary system within Commission facilities, may help reduce recidivism and improve outcomes for justice-involved youth of color.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:101.

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

SUBCHAPTER 1. GENERAL PROVISIONS

13:101-1.2 Scope

This chapter shall apply to [both committed juveniles and to] juveniles [who have been convicted of an offense subject to waiver under the provisions of N.J.S.A. 2A:4A-26.1 and] sentenced to serve a custodial

sentence in a Commission facility, who are residing in [Juvenile Justice] Commission facilities.

13:101-1.3 Definitions

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

“Bodily fluid” means saliva, blood, urine, feces, seminal fluid, or any other fluid produced by the body.

“Bodily injury” means physical pain, illness, or any impairment of physical condition.

“Chief Investigator[, Office of Investigations]” means the [Commission staff member who heads the unit] **Chief Investigator of the Commission’s Office of Investigations, charged with oversight and management responsibilities for the overall operation and supervision of the Office of Investigations, and** responsible for conducting investigations [within the Commission] at the direction of the Executive Director.

...
[“Committed juvenile” or “juvenile” means an individual who has been adjudicated delinquent and sentenced to a term of incarceration to be served under the custody of the Commission. For the purpose of this chapter, “committed juvenile” or “juvenile” shall only refer to those individuals residing in a Juvenile Justice Commission facility.]

“**Constructive custody**” means a form of care and supervision over a juvenile who, though not directly under physical supervision, is still under the authority of the Commission by law, such as a juvenile at work or on a program outing.

“Counsel substitute” means an individual, such as a juvenile paralegal, teacher, or social worker, who represents and defends a juvenile at a disciplinary hearing which is conducted within a facility under the jurisdiction of the [Juvenile Justice] Commission.

...
[“Director of Custody Operations” means the Commission staff member at each secure facility of the Commission responsible for supervising the custody work force.]

“**Deputy Executive** Director of Operations” means the Commission staff member[, by whatever name or title,] charged with oversight and management responsibilities for the overall operation and supervision of the Commission’s secure and non-secure facilities.

“Disciplinary [Hearing Officer] **hearing officer**” means a staff member of the [Juvenile Justice] Commission designated to hear and adjudicate juvenile violations.

...
“Gang” means a group of juveniles possessing common characteristics, interests, and goals which serve to distinguish these juveniles from other juveniles or groups of juveniles and which, as a discrete entity, poses a threat to the safety of staff, other juveniles, the community, or [to] the orderly operation of the facility.

“Handbook on Discipline” means a handbook prepared by the Commission and provided to juveniles, which contains a juvenile’s rights and responsibilities, the acts and activities [which] **that** are prohibited, and the disciplinary procedures and sanctions imposed.

“Institutional Classification Committee ([I.C.C.] **ICC**)” means a group of Commission staff members that have been designated to make decisions related to the assignment or reassignment of juveniles to programs and activities within a Commission facility and to conduct initial reviews of juvenile requests for transfer to another such facility.

“**Juvenile**” means an individual, regardless of age, who has been adjudicated delinquent or convicted and sentenced to serve a term of incarceration under the custody of the Commission, and is residing in or being transferred to a Commission facility.

“Juvenile Handbook” means a booklet prepared by the Commission and provided to juveniles, which contains a facility’s rules, procedures, and information about a facility’s services and programs.

...
[“Program Separation Unit” means an area within a secure facility designated for assigning juveniles who are removed from the general population for disciplinary or administrative reasons.]

“**Panel**” means the panel established pursuant to N.J.S.A. 2A:4A-44.b(2) and comprised of at least two members from the Commission

designated by the Executive Director and one member from the State Parole Board designated by its Chairperson.

...
“Shift supervisor” means the [juvenile corrections officer of supervisory rank] **custody supervisor with the rank of Correctional Police Sergeant or above** in those facilities employing custody personnel who is responsible for the maintenance of security during a tour of duty.

...

13:101-1.4 Forms

(a) The following forms related to juvenile discipline shall be reproduced or obtained by each facility through the office of the Superintendent, or designee.

[1. Room Restriction/Separation Form;]

Recodify existing 2.-6. as **1.-5.** (No change in text.)

13:101-1.5 Confidentiality of information relating to juveniles; use of confidential information in disciplinary proceedings

(a) Records and statements in the possession of the Commission that are covered by the confidentiality provisions [of] **at** N.J.S.A. 2A:4A-60, 60.2, and 60.3 may be reviewed, when necessary and appropriate, in the course of disciplinary proceedings [under] **pursuant to** this chapter, and copies of such records and statements may be maintained in juvenile disciplinary files. However, at no time shall these permitted uses of such records and statements release or exempt them from the confidentiality provisions of this section.

(b) All facility records pertaining to juveniles [charged as a delinquent, adjudicated delinquent or found to be part of a juvenile-family crisis], including records relating to the suicide or suicide attempt of a juvenile, are confidential. All such records:

1.-3. (No change.)

(c)-(d) (No change.)

SUBCHAPTER 2. PUBLICATION OF RULES

13:101-2.1 Notification to juveniles about rules and regulations

(a) [At the time of reception into the Commission] **Within one business day of admission**, each juvenile shall receive a copy of the Handbook on Discipline and thereby be advised, in writing, of his or her rights and responsibilities, the acts and activities which are prohibited, the rules which shall be followed, and the disciplinary process within the facilities of the [Juvenile Justice] Commission. Each juvenile shall be required to sign a form acknowledging receipt of the Handbook on Discipline. A refusal by the juvenile to sign shall be noted on the form by the issuing staff member.

[(b) At the time of arrival at a facility, each juvenile shall receive a copy of the facility’s Juvenile Handbook which contains facility rules, procedures and information about services and programs. The facility’s Juvenile Handbook shall be provided as part of the admission and orientation program. Each juvenile shall be required to sign a form acknowledging receipt of the facility’s Juvenile Handbook. A refusal by the juvenile to sign shall be noted on the form by the issuing staff member.]

[(c)] **(b)** All changes in disciplinary rules shall be posted in the living and common areas of the Commission’s facilities and incorporated into the next revision of the Handbook on Discipline and, when appropriate, in the [facility’s] Juvenile Handbook.

Recodify existing (d)-(e) as **(c)-(d)** (No change in text.)

13:101-2.2 Review of facility rules

The Superintendent, **or designee**, of each facility shall be responsible for maintaining an ongoing rule review process to ensure that the rules of the facility are current and appropriate. [The facility’s Juvenile Handbook shall be revised accordingly.]

13:101-2.3 Promulgation of rules

(a) The rules of a facility shall be approved by the [facility’s Superintendent] **Deputy Executive Director of Operations** and published in the [facility’s] Juvenile Handbook.

(b) (No change.)

SUBCHAPTER 3. JUVENILE RIGHTS AND RESPONSIBILITIES

13:101-3.1 Notification to juveniles of their rights and responsibilities

(a) Upon reception into the Commission, each juvenile shall be given a Handbook on Discipline, which shall clearly and prominently inform the juvenile of his or her rights:

1. To be treated respectfully, impartially, and fairly by all personnel;
2. To be informed of the rules, procedures, and schedules concerning the operation of the facility;
- 3.-4. (No change.)
5. To nutritious meals, proper bedding and clothing, a laundry schedule for cleaning bedding and clothing, an opportunity to shower regularly, sufficient warmth, proper ventilation, fresh air, a regular exercise period, and toilet articles;
- 6.-10. (No change.)
11. To participate in counseling, education, vocational training, and employment as far as resources are available and in keeping with the juvenile's interests, needs, and abilities; and
12. (No change.)

(b) Upon reception into the Commission, each juvenile shall be given a Handbook on Discipline, which shall clearly and prominently inform the juvenile of his or her responsibilities:

1. To treat others, both employees and juveniles, respectfully, impartially, and fairly;
2. To know and abide by the rules, procedures, and schedules concerning the operation of the facility;
3. (No change.)
4. To follow the laundry and shower schedules, to maintain neat and clean living quarters, **and** to seek medical and dental care, as needed;
- 5.-7. (No change.)
8. To take advantage of activities (such as counseling, education, vocational training, and employment) that may help the juvenile live a successful and law-abiding life within the facility and in the community. The juvenile will be expected to abide by the regulations governing the use of such activities; and
9. (No change.)

SUBCHAPTER 4. VIOLATIONS

13:101-4.1 Violations

(a) A juvenile who commits one or more of the following numbered violations [shall] **may** be subject to disciplinary action:

<u>Number</u>	<u>Violation</u>	<u>Description</u>
...		
SECTION J4: ESCAPE		
J401	Escape	Leaving the grounds of a Commission facility or the constructive custody of the Commission without authorization.
...		
SECTION J7: CONDUCT WHICH DISRUPTS THE SECURITY OR ORDER OF A FACILITY		
J701	Extortion or Blackmail	Demanding or receiving favors, money, or anything of value from another in return for protection against others, to avoid bodily harm, or under threat of informing.
...		
J706A	Property Damage	Damaging or altering government property or property belonging to another person. Examples: Writing on clothing, sneakers, or furniture.
...		
J709	Refusing to Obey [An] an Order	Refusing to follow any order issued by a staff member.
...		
J712	Absence or Lateness	Unexcused absence or lateness from work, school, or [from] any assignment.
...		

13:101-4.2 Mechanisms for responding to violations

(a) When a juvenile is alleged to have committed a violation, the staff member witnessing the violation shall determine the initial mechanism for handling the violation based on the severity of the incident[. All alleged violations shall be handled via a full disciplinary proceeding in accordance with N.J.A.C. 13:101-6 except those judged to be minor in nature, which shall be handled via immediate corrective action in accordance with N.J.A.C. 13:101-5] **and whether to handle the violation as a full disciplinary proceeding or immediate corrective action.**

(b) Pursuant to the provisions [of] at N.J.A.C. 13:101-5 and 6, the determination made by the staff member pursuant to (a) above shall be subject to review, **appeal by the juvenile**, and change by the appropriate supervisor and/or [Disciplinary Hearing Officer] **disciplinary hearing officer.**

13:101-4.3 Reports to the prosecutor on violations

All violations which may constitute crimes of the first, second, third, or fourth degree [under] **pursuant to** the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.), shall be referred to the prosecutor of the county in which the facility is located. The referral shall be made by the Chief Investigator of the Commission's Office of Investigations with the approval of the Executive Director.

SUBCHAPTER 5. IMMEDIATE CORRECTIVE ACTION PROCEDURES

13:101-5.2 Immediate corrective action conference

(a) (No change.)

(b) A juvenile may waive the conference or may forfeit the right to attend if the juvenile's behavior justifies his or her removal from the conference. A waiver or removal shall be documented on the Immediate Corrective Action Form. In either case, the shift supervisor or unit manager shall review the form and appropriateness of the proposed [sanction] **corrective action.**

(c) Following the conference or review, the shift supervisor or unit manager shall:

1. Sustain the violation of a disciplinary rule and concur with the proposed corrective action or change the proposed [sanction] **corrective action** to another authorized corrective action (N.J.A.C. 13:101-5.3);

2. Conclude that a more serious [sanction] **corrective action** is necessary and refer the matter to the [Disciplinary Hearing Officer] **disciplinary hearing officer** for a disciplinary hearing in accordance with N.J.A.C. 13:101-5.6; or

3. (No change.)

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

13:101-5.3 Authorized immediate corrective actions

(a) The following are authorized immediate corrective actions:

1. Withdrawing a privilege or an individual or group activity, for example, recreation, television, or radio privileges, for no more than five days; meals and snacks provided by the facility are not permitted to be used as a sanction;

2. Requiring a juvenile to pay for repair of damaged property[; to], repair the damage, or [to] complete a work task;

3. (No change.)

[4. Facility restriction;

i. Facility restriction shall not exceed 48 hours without approval of the Superintendent;

ii. Juveniles who receive facility restrictions shall discuss their behavior and the results of their behavior with a staff member prior to rejoining the general population; and

iii. Facility restrictions shall be entered in the facility or housing unit log book;]

[5.] **4. Formal reprimand communicated to a juvenile by a Correctional Police Sergeant[,]** or above; [and]

[6.] **5. Up to four hours of extra work duty[.]; and**

6. Any restorative approach designed to repair harm approved by the Executive Director, or designee, included, but not be limited to, Restorative Circles, group or individual mediation for conflict resolution, and peer mentoring.

13:101-5.4 Imposition of immediate corrective action

If the shift supervisor or unit manager sustains the violation of a disciplinary rule, the approved [sanction] **corrective action** shall be [imposed] **implemented** within 24 hours of the conference.

13:101-5.5 Record of immediate corrective action

(a) The Immediate Corrective Action Form shall be retained [separately from the juvenile's classification folder and] in accordance with the internal management procedures of the facility.

(b) Information regarding immediate corrective actions shall not be entered onto progress notes or be included in the reports presented to the New Jersey State Parole Board **or the Panel**.

13:101-5.6 Referral to the [Disciplinary Hearing Officer] **disciplinary hearing officer** for a disciplinary hearing

(a) Should the shift supervisor or unit manager conclude that a more serious sanction may be appropriate, the matter [shall] **may** be referred to the [Disciplinary Hearing Officer] **disciplinary hearing officer** for a disciplinary hearing and disposition.

(b) A Notice of Violation shall be filed containing all the required information, including a statement of reasons for the referral and any recommendations. The [Notice] **notice** and copies of all relevant documents shall be forwarded to the [Disciplinary Hearing Officer] **Superintendent for review and forwarded to the disciplinary hearing officer, if warranted**.

SUBCHAPTER 6. DISCIPLINARY PROCEEDINGS

13:101-6.1 Designation and [Authority] **authority** of the [Disciplinary Hearing Officer] **disciplinary hearing officer**

(a) All disciplinary hearings shall be conducted [at a secure facility] by a [Disciplinary Hearing Officer] **disciplinary hearing officer** designated by the Executive Director.

(b) The [Disciplinary Hearing Officer] **disciplinary hearing officer** shall have the authority to summon witnesses, take testimony, **and** receive documentary evidence and shall have access to all facility records, which are relevant and necessary to the adjudication of any disciplinary case.

(c) The [Disciplinary Hearing Officer] **disciplinary hearing officer** shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence that is not necessary for an adequate understanding of the case. The [Disciplinary Hearing Officer] **disciplinary hearing officer** shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse, or repetitiveness and to [insure] **ensure** that the hearing does not develop into an [adversary] **adversarial** proceeding.

13:101-6.2 Disciplinary report

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

(c) The Notice of Violation shall be served upon the juvenile within 24 hours after the violation unless there are exceptional circumstances. The notice shall be delivered by the [reporting staff member or the] investigating staff member. The notice shall be signed by the person delivering it and the date and time of delivery shall be noted. The juvenile shall have at least 24 hours to prepare his or her defense.

13:101-6.6 Scheduling disciplinary hearings

(a) (No change.)

(b) The juvenile shall be entitled to a hearing within three days of the alleged violation, including weekends and holidays, unless the hearing is prevented by exceptional circumstances, unavoidable delays, or reasonable postponements. Should the third day fall on a Saturday, Sunday, or holiday, the last day for the hearing shall be the weekday immediately following the weekend or holiday.

(c) (No change.)

13:101-6.11 Aid in presentation of juvenile's case

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

(c) Where the juvenile requests the services of a staff member, the Superintendent, or [his or her] designee, may appoint a staff member to provide representation.

(d) (No change.)

(e) If necessary, the juvenile shall be allowed to present a defense through an interpreter **service**.

13:101-6.12 Opportunity to call witnesses and present evidence

(a) Juveniles shall be allowed to call witnesses and present documentary evidence in their defense when permitting them to do so will not be unduly hazardous to facility safety. The [Disciplinary Hearing Officer] **disciplinary hearing officer** shall review the evidence offered as reasonably available and necessary for proper understanding of the circumstances surrounding the charge. The [Disciplinary Hearing Officer] **disciplinary hearing officer** has the discretion to keep the hearing within reasonable limits and to refuse to call repetitive witnesses and witnesses who may create a risk of reprisal. For purposes of this subsection, "repetitive witnesses" are witnesses who provide the same account as a previous witness(es). "Repetitive witnesses" are not intended to refer to the calling of a witness(es) who previously provided written documentary evidence. Unavailable witnesses may be asked to submit written statements. If the [Disciplinary Hearing Officer] **disciplinary hearing officer** refuses to call one or more witnesses, the reasons for each such refusal shall be separately specified on the Disciplinary Review Report.

(b) (No change.)

13:101-6.13 Confrontation and cross examination

(a) (No change.)

(b) The [Disciplinary Hearing Officer] **disciplinary hearing officer** may refuse confrontation and cross examination when [said] **doing so** would be unduly hazardous to facility safety.

13:101-6.16 Disciplinary consequences

(a) (No change.)

(b) Sustaining charges for any violation, other than a violation handled by immediate corrective action, shall render the offender subject to one or more of the following consequences:

1. (No change.)

2. Referral [to the Behavior Accountability Unit] **for Behavioral Adjustment Status**, mental health services, or to another program or treatment regimen for appropriate care and/or treatment;

3. Loss of telephone, radio, television, and [contact] visit privileges for up to 30 days;

4.-7. (No change.)

(c) (No change.)

13:101-6.20 Transfers

(a) A juvenile in [either a non-secure facility or in any other facility without an assigned Disciplinary Hearing Officer.] **a Commission Community Program** who is charged with a violation, other than one handled by [immediate corrective action] **a Tier 1 disciplinary process as defined at N.J.A.C. 13:103-14.3**, shall be transferred to a secure facility with an assigned [Disciplinary Hearing Officer] **disciplinary hearing officer** for adjudication of his or her disciplinary charges.

(b)-(f) (No change.)

(g) Except as set forth [in] **at** (a) above, no juvenile in a Commission secure facility shall be transferred to a more secure facility as a result of a disciplinary charge unless the Superintendent and the **Deputy Executive Director of Operations** have determined that there are conditions justifying the transfer.

13:101-6.21 Disciplinary decision

(a) After the hearing has been completed, written fact-findings shall be given to the juvenile by the [Disciplinary Hearing Officer] **disciplinary hearing officer**. This statement shall include evidence relied upon, the decision, and the reason for the disciplinary action taken, unless doing so would, in the discretion of the [Disciplinary Hearing Officer] **disciplinary hearing officer**, jeopardize facility security. The written statement shall also indicate the reason for refusing to call a witness or to disclose items of evidence whether it be for irrelevance, lack of necessity, or other special circumstances presented in individual cases. When a juvenile has been denied the opportunity for confrontation and cross-examination, the reason for such denial shall be entered in the record and made available to the juvenile.

(b) (No change.)

(c) If the charges against the juvenile are sustained, the decision shall be entered on the juvenile's progress notes and included in reports submitted to the New Jersey State Parole Board **or the Panel**.

13:101-6.22 Discipline record [card]

For the purpose of assisting the [Disciplinary Hearing Officer] **disciplinary hearing officer** in determining the appropriate sanction to impose, each facility shall have available at the hearing, a Disciplinary Record [Card] for each juvenile. [This card shall accompany the juvenile should he or she be transferred to another Commission facility.]

13:101-6.23 Expungement

(a) If a charge against a juvenile is not sustained, the results of the hearing shall not be entered [onto] **into** the juvenile's [progress sheet] **record**. In addition, all references to the disciplinary charges [(including any entry onto the progress sheet, the disciplinary report, the investigation report and the adjudication sheet)] shall be removed from the juvenile's **record and** classification folder. [Copies of the disciplinary report, investigation and adjudication sheet shall be maintained by the facility and the Disciplinary Hearing Officer in the event of judicial review and for statistical and accounting purposes only. These records shall be maintained separately from the juvenile's classification folder.]

(b) In the event that a charge that was sustained is rescinded on appeal and no further disciplinary action is taken, the juvenile's records shall be expunged in accordance with the above procedure. [Copies of the appeal and the disposition on appeal shall be forwarded to the Disciplinary Hearing Officer for his or her records.]

SUBCHAPTER 7. APPEALS OF DISCIPLINARY DECISIONS

13:101-7.1 Time limit to file an appeal

(a) The juvenile shall be advised, in writing, by the [Disciplinary Hearing Officer] **disciplinary hearing officer** of the opportunity to appeal to the Superintendent, or [his or her] designee, [who shall be an Assistant Superintendent,] at the time the juvenile is provided with the disciplinary decision. Juveniles shall have 48 hours from receipt of the disciplinary decision to make such appeal.

(b) In all cases, the Superintendent, or [his or her] designee, may, for good cause shown, accept appeals submitted after the prescribed deadline.

13:101-7.2 Processing appeal

(a) (No change.)

(b) Upon submission of the Disciplinary Review Appeal Form, the person accepting the appeal form shall sign, date, and note the time on the original and copies in the juvenile's presence. A copy of the form shall be given to the juvenile.

(c) (No change.)

(d) All appeals shall be considered by the Superintendent, or [his or her] designee, of the facility at which the charge was adjudicated.

(e)-(g) (No change.)

13:101-7.3 Stay of consequences pending appeal

Juveniles who wish to have their consequences stayed pending a decision on their appeal, must make a request to the Superintendent, or

[his or her] designee, for this consideration. If this request is not made, no action shall be taken to stay any consequences received in the disciplinary hearing.

13:101-7.4 Investigation of appeal

(a) The Superintendent, or [his or her] designee, may order an independent investigation of the charge and proceedings of the disciplinary hearing in those instances in which the juvenile's appeal and information furnished after the initial disciplinary hearing appear to warrant such action.

(b) The Superintendent, or [his or her] designee, shall have the option to request a total or partial reinvestigation of the charge or proceedings of the hearing. The reinvestigation may be conducted by any person or unit designated by the Superintendent, or [his or her] designee, provided, however, that the individual shall have had no contact with the issuance of the first investigation of the charge.

(c) (No change.)

(d) On the basis of new evidence, the Superintendent or his or her designee may also request a polygraph examination as part of the reinvestigation. A juvenile under the age of 18 who consents to take a polygraph examination shall take the examination only with the express written consent of his or her parent or guardian, or if there is an appropriately executed court order. All other factors relating to administering polygraph examinations to juveniles shall be handled in the same manner as to an adult inmate (See N.J.A.C. 10A:3-7). Pursuant to N.J.S.A. 2C:40A-1, no employee may be forced to consent to a polygraph examination as a prerequisite to employment or as a condition of retaining employment.]

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

13:101-7.5 Disposition of appeal

(a) At the conclusion of the review of an appeal, the Superintendent, or [his or her] designee, shall take one of the following actions:

1.-5. (No change.)

(b) (No change.)

13:101-7.6 Notification to juvenile of appeal results

(a) In all cases, the juvenile shall be notified, in writing, of the results of the review of the appeal and the reasons therefor. The Disciplinary Review Appeal Form shall be used for this purpose.

1. The Superintendent, or [his or her] designee, shall respond, in writing, to the juvenile within two business days of receipt of the appeal.

(b) Copies of the decision shall also be distributed to the [Disciplinary Hearing Officer] **disciplinary hearing officer** and the juvenile's file. Other copies may be distributed as determined to be necessary by the Superintendent, or [his or her] designee.

(c) Only for reasons of significant importance may a Superintendent, or [his or her] designee, extend the time limit to act on an appeal. In such case, the juvenile shall be notified, in writing, within the prescribed time period that action on the juvenile's appeal has been extended. Where possible, the reason for the extension shall be explained in general terms to the juvenile.