

hearing. When the license, permit, training agency certification, or instructor approval has been suspended, the aggrieved person shall have the right to a hearing within 10 calendar days of the notice of suspension.

(c) Upon receipt of the written request, an informal conference shall be held before a designee of the Commissioner of Labor and Workforce Development or Health [and Senior Services], as the case may be, within 30 calendar days. The designee of the Commissioner of Labor and Workforce Development or Health, [and Senior Services] as the case may be, shall render a decision within 45 calendar days of the conference. Such decision shall state the findings and conclusions and shall be transmitted to the aggrieved person.

(d) Any party who disagrees with the decision of the Commissioner of Labor and Workforce Development or [Health and Senior Services'] Health's designee may submit a written request for a formal hearing in accordance with (e) below.

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

#### 8:60-8.3 (12:120-8.3) Citizen complaints

(a) Any person who believes a violation of the provisions of the Act has occurred may file a citizen complaint petitioning the Commissioner of Labor and Workforce Development or Health [and Senior Services] to bring an enforcement action. The citizen complaint shall specify:

- 1.-3. (No change.)
- (b)-(c) (No change.)

### SUBCHAPTER 9. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

#### 8:60-9.1 (12:120-9.1) Documents referred to by reference

(a) The full title and edition of each of the standards and publications referred to in this chapter are as follows:

1. (No change.)
2. N.J.A.C. 1:1, Uniform **Administrative** Procedure Rules;
3. (No change.)
4. N.J.A.C. 7:26, [Non-Hazardous] **Solid and Hazardous** Waste Regulations;
- 5.-10. (No change.)

#### APPENDIX

For the purpose of analyzing Category I non-friable asbestos containing material and other non-friable organically bound material, the Department of Labor and Workforce Development and the Department of Health [and Senior Services] shall utilize the "Test Method -- Method for Determination of Asbestos in Bulk Building Materials," EPA/600/ R-93/116, July 1993, in the following manner:

- 1.-4. (No change.)

## CORRECTIONS

### (a)

#### STATE PAROLE BOARD

##### Parole Board Rules

##### Division of Parole

##### Readoption with Amendments: N.J.A.C. 10A:71

##### Adopted Amendments: N.J.A.C. 10A:72-1.1, 2.4, 3.6, 6.1, 7.1, 10.1, 10.2, 10.3, 10.4, 10.8, 10.9, 11.2, and 11.3

##### Adopted New Rules: N.J.A.C. 10A:72-14

Proposed: October 16, 2017, at 49 N.J.R. 3408(a).

Adopted: January 31, 2018, by the New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairman.

Filed: March 19, 2018, as R.2018 d.093, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:4-123.48.d, 30:4-123.51.b, and 30:4-123.92.d.

Effective Dates: March 19, 2018, Readoption;  
April 16, 2018, Amendments and New Rules.

Expiration Dates: March 19, 2025, N.J.A.C. 10A:71;  
December 5, 2020, N.J.A.C. 10A:72.

#### Summary of Public Comment and Agency Response:

The official comment period ended on December 15, 2017. In response to the notice of proposal, the State Parole Board (Board) received comments from Michael C. Woyce, Esq., in regards to proposed new N.J.A.C. 10A:72-14, Internet Access Condition. The comment from Mr. Woyce and the agency response are as follows:

COMMENT: The proposed regulation permits the imposition of absolute Internet prohibitions, as well as granting the Board power to monitor all Internet communications of an offender and requires the disclosure of all passwords used to access information on the Internet. This restriction prohibits benign Internet activity and other Internet communications that pose no risk of harm. The regulation is overly broad and violates offenders' First Amendment protections. The regulation should be less restrictive and more narrowly tailored and the prohibition to all Internet access is greater than necessary to meet any governmental interest.

Offenders' First Amendment rights are further intruded upon by requiring monitoring software. No guidelines are created for the imposition of this software and it is unclear which programs are acceptable and what features may be utilized. As the Division of Parole may not ransack an offender's home, read every piece of mail, and require him or her to write his or her every thought out for review by the Division of Parole, nor can it do so through technological means.

The regulation requires offenders to provide all passwords. This would include passwords to such matters as bank log-in information and access to government benefit programs. The Division of Parole is not entitled to such information.

The regulation violates the Fourth Amendment. The State Parole Board may only conduct a search (using software is a search through technical means) where it has a reasonable articulable suspicion of a violation. The regulation would permit an ongoing search without a reasonable suspicion of wrongdoing.

The procedure to impose Internet prohibitions is defective as the regulation does not permit a hearing, evidentiary or otherwise. The State Supreme Court in *J.I. v. New Jersey State Parole Board*, 228 N.J. 204 (2017), noted that J.I. was entitled to a reasonable opportunity to challenge the proposed imposition of the severely enhanced Internet restrictions and to a hearing in some form even if not an evidentiary one before the Board. The Court ordered at a minimum that offenders are entitled to provide written submissions and a hearing. The proposed regulation only provides for half of the process demanded by the Court.

The regulation provides for a review no less than one year from the effective date. The language utilized requires no review. The regulation prohibits a review in the first year and only requires a review on an annual basis thereafter, if necessary. The proposed regulation does not make the yearly review automatic, nor does it define when a review would be necessary. An offender should be entitled to a review of any Internet restriction at least every 90 days and for a decision to be rendered and a justification given for any continuation of the restriction.

Therefore, the proposed regulation should not be adopted and significant revisions are necessary to protect the substantial liberty interests affected and to more narrowly tailor the authority of the Division of Parole to impose Internet restrictions. Additionally, guidelines are necessary with regard to searching computers, as well as a process for more frequent reviews of the deprivation of liberty.

RESPONSE: The Board believes that the new subchapter addresses the First Amendment issues referred to by Mr. Woyce by delineating the Internet access condition as a special condition that will only apply on a case-by-case basis. The Division of Parole is required to demonstrate a specific and articulable reason and a clear purpose for the imposition of the Internet access condition. The proposed new subchapter also requires the Division of Parole to demonstrate that the imposition of the Internet access condition will act as an aid to the offender's re-entry effort, will

promote the rehabilitation of the offender, is necessary to protect the public, or will reduce recidivism by the offender. Furthermore, under the proposed new subchapter, the prohibition of Internet use can be relaxed with the approval of the District Parole Supervisor or designee. Many courts have upheld conditional bans on Internet use by sex offenders, whereby, the prohibition of Internet use could be relaxed with the approval of the offender's probation/parole officer.

The constitutional rights of a sex offender who is serving a special sentence of community/parole supervision for life are greatly diminished. The Supreme Court of the United States has acknowledged that a state has an overwhelming interest in supervising parolees because parolees are more likely to commit future criminal offenses. A state's interests in reducing recidivism among parolees allow for privacy intrusions that would not otherwise be tolerated under the Fourth Amendment. The Supreme Court of the United States has held that parolees do not have unfettered constitutional rights and that parole conditions that restrict their activities substantially beyond the ordinary restrictions imposed by law on an individual citizen do not violate the Constitution. Moreover, in *J.I., supra*, referred to by Mr. Woyce, the State Supreme Court held that in lieu of imposing a complete ban on Internet use, the Board had the option of imposing other less restrictive methods of supervision including a condition that required the installation of monitoring software on an offender's computer or device. The Court did not question the validity of such a condition. The installation of monitoring software on an Internet capable device(s) serves to ensure that an offender uses his or her electronic device(s) for authorized purposes only, thereby, furthering the State's interest in rehabilitation. It also allows the Board to determine if an offender is using these devices in a manner that could trigger re-offense, as well as whether the offender is re-offending. Thus, the condition serves the interest of protecting the public.

The new subchapter provides for the disclosure of all passwords used by an offender to access any data, information, image, program signal, or file on the computer/device. The Board believes that the disclosure would fall under a less restrictive method of supervision, is legally permissible, and is necessary to monitor an offender's computer/device activity. Mr. Woyce maintains that the requirement is overbroad because it would include disclosure of passwords related to activities, such as banking and government benefit programs. The purpose of the disclosure requirement is to permit a parole officer to search a computer/device to determine whether the offender is engaging in inappropriate activity. The Board concurs that there would seemingly be no purpose or reason for a parole officer to conduct a search of the computer/device related to matters such as banking or government benefit programs. However, a parole officer must have access to the computer/device and to personal e-mail addresses that could contain evidence of inappropriate activity. The Board has, therefore, elected to change proposed N.J.A.C. 10A:72-14.1(c)1vi. As changed, an offender is required to disclose all usernames and passwords related to the accessing of any computer/device, e-mail, and approved social networking service or chat room. Additionally, an offender will be required to disclose any other username(s) and password(s) utilized to access any data, information, image, program signal, or file as deemed necessary by a parole officer to ensure the offender's compliance with the conditions of supervision. The Board has included reference to username(s) as such may be an identification requirement in order to access a computer/device or any of the aforementioned items.

Mr. Woyce asserts that under *J.I., supra*, an offender is entitled to an in-person hearing before the Board prior to the imposition of the Internet access condition. In *J.I.*, the State Supreme Court reversed a condition imposed by the Board barring J.I. from accessing the Internet. The Court remanded the matter to the Board for the purpose of providing J.I. or his counsel the opportunity to challenge the condition at a hearing. Nowhere in the Court's opinion did the Court hold that all offenders serving a special sentence of community/parole supervision for life must be afforded a hearing to challenge a special condition that places restrictions on Internet use. Although the Court required a process to safeguard against arbitrary government action, the Court stated it will not mandate a regime that makes it impractical to impose an Internet restriction to protect the public or rehabilitate an offender. The Court

determined that the balance of interests weighs in favor of giving a supervised offender the opportunity to respond in a meaningful way to a near total or absolute Internet ban and that due process will be satisfied by allowing an offender the opportunity to respond by letter with supporting attachments, such as certifications or affidavits. The Board believes that the proposed new subchapter is in accordance with the Court's opinion and, therefore, a hearing is not required to be included in the proposed regulation.

Mr. Woyce claims that the annual review by the District Parole Supervisor is discretionary and not mandatory and that an offender should be entitled to a more frequent review of the Internet access condition. The proposed new rule uses the term "shall" and, therefore, the review is mandatory and not discretionary. However, to clarify the proposed new rule and to address Mr. Woyce's concern regarding when a review may be necessary, the Board has elected to change N.J.A.C. 10A:72-14.4(a). The Board has deleted the phrase "no less than" and deleted the phrase "if necessary." Thus, the first annual review is to be conducted one year from the effective date of the condition and on an annual basis thereafter (this, of course, assumes that the condition is continued at an annual review). The Board also believes, based on *J.I., supra*, that an annual review is a reasonable time period for an assessment as to whether an Internet access condition is to be continued.

Except for the modifications to N.J.A.C. 10A:72-14.1(c)1(vi) and 14.4(a), the Board elected to adopt new N.J.A.C. 10A:72-14 as proposed.

#### Federal Standards Statement

The rules readopted with amendments and new rules do not pertain to the implementation of, compliance with, or participation in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. An analysis of the rules readopted with amendments and new rules pursuant to Executive Order No. 27 (1994), P.L. 1995, c. 65 is, therefore, not required.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10A:71.

**Full text** of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

### CHAPTER 71 PAROLE

#### SUBCHAPTER 1. BOARD ORGANIZATION

##### 10A:71-1.1 Definitions

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

... "Division of Parole" shall mean the division within the State Parole Board responsible for the supervision of adult and juvenile offenders released on parole by the State Parole Board from an adult correctional facility; the supervision of offenders who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of offenders under parole supervision from other states who have been accepted under the terms of the Interstate Compact for Adult Offender Supervision; the supervision of offenders sentenced to community supervision for life; the supervision of offenders sentenced to parole supervision for life; the supervision of juvenile offenders released from an adult correctional facility for the service of a term of post-incarceration; and the supervision of certain Executive Clemency cases.

... "Juvenile inmate" shall mean any person committed by the Family Court to a term of incarceration pursuant to N.J.S.A. 2A:4A-44.d(1).

... "Parolee" shall mean any inmate who is subject to the parole jurisdiction of the Board and who has been released on parole. "Parolee" shall also include a juvenile offender released from an adult correctional facility under supervision serving a term of post-incarceration; an adult offender under supervision serving a term of mandatory parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); an adult offender under

supervision serving a special sentence of parole supervision for life; an adult offender who resides in New Jersey under the terms of Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.

...

### SUBCHAPTER 3. PAROLE RELEASE HEARINGS

#### 10A:71-3.33 Post-incarceration supervision

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

(g) As authorized by N.J.S.A. 2A:4A-44(d)5, a term of post-incarceration supervision may be terminated by the juvenile Board panel. Consideration to terminate the term of post-incarceration shall be in accordance with N.J.A.C. 10A:71-6.9(i).

(h)-(i) (No change.)

#### 10A:71-3.48 Victim input

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

(c) The term "nearest relative of a murder/manslaughter victim" shall mean a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister, guardian of a minor, domestic partner, or civil union partner.

(d)-(r) (No change.)

#### 10A:71-3.52 Interstate corrections compact and serving time-out-State (s.t.o.s.) cases

(a)-(p) (No change.)

(q) If an annual review hearing is to be scheduled pursuant to N.J.A.C. 10A:71-3.21(f), the following shall occur:

1. The Board shall notify the Department that the offender will be scheduled for an annual review hearing. The Department upon notice being provided shall request the out-of-State or Federal institutional authority to submit to the Board a report concerning the offender. The report shall consist of the information required in N.J.A.C. 10A:71-3.7(e)3 through 6.

2.-6. (No change.)

(r) (No change.)

#### 10A:71-3.54 Mandatory supervision cases

(a)-(n) (No change.)

(o) If an offender sentenced pursuant to N.J.S.A. 2C:43-7.2 is also sentenced to a special sentence of community supervision for life or parole supervision for life pursuant to N.J.S.A. 2C:43-6.4 and if the offender is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision shall include, in addition to those conditions established pursuant to (e)2 above and N.J.A.C. 10A:71-6.4(a) and (i), the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), and (f) or 6.12(d), (e), (g), and (h), as appropriate.

#### 10A:71-3.56 Parole contract agreements; adult inmates

(a)-(i) (No change.)

(j) The specified reduction(s) in the parole contract agreement shall be granted upon compliance with all of the following conditions:

1.-2. (No change.)

3. The inmate must not have been adjudicated guilty of the commission of any disciplinary infraction pursuant to N.J.A.C. 10A:4-9; and

4. (No change.)

(k)-(l) (No change.)

(m) The Board may terminate a parole contract agreement based on the following:

1. The inmate has been adjudicated guilty of any disciplinary infraction pursuant to N.J.A.C. 10A:4-9; or

2. (No change.)

(n)-(q) (No change.)

### SUBCHAPTER 4. APPEALS

#### 10A:71-4.1 Appeals by inmates

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

(d) Any rescission of parole release date by a Board panel shall be appealable to the Board provided one of the following criteria is met:

1.-2. (No change.)

3. A Board member participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

4. (No change.)

(e)-(j) (No change.)

#### 10A:71-4.4 Review of Division of Parole decisions

(a) A determination by a District Parole Supervisor or his or her designated representative shall be appealable to the Director, Division of Parole, or his or her designated representative.

1. An appeal may be submitted, provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

iv. (No change in text.)

2.-4. (No change.)

(b) The determination of the Director, Division of Parole, or his or her representative rendered pursuant to (a) above shall be appealable to a Board panel.

1. A determination by the Director, Division of Parole, or his or her representative shall be appealable to a Board panel provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

iv. (No change in text.)

2.-4. (No change.)

(c) The decision of the Board panel rendered pursuant to (b) above shall be appealable to the Board.

1. The decision by the Board panel shall be appealable to the Board provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

iv. (No change in text.)

2.-4. (No change.)

### SUBCHAPTER 6. SUPERVISION

#### 10A:71-6.4 Conditions of parole

(a) An offender granted parole shall comply with the following general conditions of parole:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation.

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court.

6. Refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes.

7.-19. (No change.)

(b) In the case of an adult or young adult State inmate subject to the provisions of N.J.S.A. 2C:43-6.4, the certificate of parole shall contain as general conditions of parole, in addition to those conditions specified in (a) above, the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), and (f) or 6.12(d), (e), (g), and (h) as appropriate.

(c)-(m) (No change.)

10A:71-6.10 Transfer of parole supervision to out-of-State jurisdiction

(a) The appropriate Board panel may permit a parolee to reside outside the State pursuant to the provisions of the Interstate Compact for Adult Offender Supervision (N.J.S.A. 2A:168-26 et seq.) and the Interstate Compact on juveniles (N.J.S.A. 9:23-1 et seq.) if the Board panel is satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense, which would be a crime under the laws of this State.

(b)-(h) (No change.)

10A:71-6.11 Community supervision for life

(a) (No change.)

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4.b upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and subject to any special conditions established by the appropriate Board panel and to the following general conditions. The offender shall:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

6. Refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes;

7.-20. (No change.)

21. Submit to a search conducted by a parole officer, without a warrant, of the offender's person, place of residence, vehicle, or other real or personal property within the offender's control at any time a parole officer has a reasonable, articulable basis to believe that the search will produce contraband or evidence that a condition of supervision has been violated, is being violated, or is about to be violated and permit the confiscation of any contraband;

22. (No change.)

23. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

i. (No change.)

ii. "Internet website or application," as used in (b)23iv below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in (b)23iv below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. (No change.)

(c)-(n) (No change.)

10A:71-6.12 Parole supervision for life

(a) Pursuant to N.J.S.A. 2C:43-6.4(a), any enumerated offense committed on or after January 14, 2004, a court imposing sentence on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1(c)2, engaging in sexual conduct that would impair or debauch the morals of a child pursuant to N.J.S.A. 2C:24-4(a), endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4(b)3, luring, or an attempt to commit any of these offenses shall include, in addition to any sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life. Pursuant to N.J.S.A. 2C:43-6.4.a, a court imposing sentence on a person who has been convicted of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5) or an attempt to commit either of these offenses on or after August 14, 2013, may include, upon motion of the prosecutor, in addition to any other sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life.

(b)-(c) (No change.)

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

6. Refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes;

7.-24. (No change.)

25. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

i. (No change.)

ii. "Internet website or application," as used in (d)25iv below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a

mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in (d)25iv below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. (No change.)

26. (No change.)

(e)-(v) (No change.)

#### SUBCHAPTER 7. REVOCATION OF PAROLE

##### 10A:71-7.13 Revocation hearing; scheduling

(a) Except as provided herein, the revocation hearing shall be conducted within 60 days of the date the parolee was taken into custody as a parole violator, or, where the parolee was sentenced or committed to a State correctional, county correctional, or juvenile facility, within 60 days of the date of sentence or commitment.

(b)-(d) (No change.)

(e) If the request for postponement by the hearing officer, parole officer, or by a parolee is due to unanticipated scheduling problems or other emergent circumstances, such postponement shall be granted by the appropriate Board panel and shall not exceed 60 days from the originally scheduled date of hearing.

##### 10A:71-7.15 Status of parolee pending Board panel action

(a) (No change.)

(b) In the case of a parolee who is on parole on a sentence imposed for the offense of murder, aggravated manslaughter, manslaughter, death by vehicular homicide, aggravated assault, kidnapping, aggravated sexual assault, sexual assault, robbery first degree, burglary second degree, terroristic threats, or endangering the welfare of a child, the warrant shall not be withdrawn pursuant to (a) above if the hearing officer determines that, based on the review of the hearing record and the review of the Board's records on the parolee, the parolee would pose a danger to the public safety. In such case, the parolee shall remain in custody pending a review by the appropriate Board panel pursuant to N.J.A.C. 10A:71-7.17, 7.17A, or 7.17B.

(c)-(e) (No change.)

##### 10A:71-7.17B Board panel action; schedule of future parole eligibility dates upon revocation of parole for inmates who violated parole on or after December 4, 1995

(a) This section applies to inmates who violated parole on or after December 4, 1995. After consideration of the hearing officer's hearing summary and opinion and any written exceptions thereto, a two-member Board panel shall determine whether to revoke parole pursuant to N.J.A.C. 10A:71-7.12. The Board panel members shall not receive or consider any ex parte communication. The parolee's case shall be decided on the basis of the established record.

1.-2. (No change.)

3. Except as provided in this section, if parole is revoked by the two-member Board panel and parole release is not certified pursuant to (a)2 above, an adult inmate shall serve 12 months, a young adult inmate shall serve nine months, and a juvenile inmate shall serve six months if the inmate has violated one of the following conditions of parole:

i. (No change.)

ii. Failure to notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

iii. Failure to comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the

provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

iv. Failure to refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes;

v.-viii. (No change.)

(b)-(r) (No change.)

#### CHAPTER 72 DIVISION OF PAROLE

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10A:72-1.1 Definitions

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

...

"Parole officer" means persons with the following Division of Parole titles that shall be sworn as peace officers:

1.-5. (No change.)

6. Senior Parole Officer;

7. Parole Officer Recruit;

8. Chief Investigator Parole & Secured Facilities;

9. Principal Investigator Parole & Secured Facilities; and

10. Senior Investigator Parole & Secured Facilities.

"Parole supervision for life" as established in N.J.S.A. 2C:43-6.4, means a court imposed sentence of parole supervision on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1.c(2), endangering the welfare of a child by engaging in sexual conduct that would impair or debauch the morals of the child pursuant to N.J.S.A. 2C:24-4.a, endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(3), luring, endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5), or an attempt to commit any such offense. Rules regarding parole supervision for life are established at N.J.A.C. 10A:71-6.12.

"Parolee" means any inmate who is subject to the parole jurisdiction of the Board and who has been released on parole. "Parolee" shall also include a juvenile offender released from an adult correctional facility under supervision serving a term of post-incarceration; an adult offender under supervision serving a term of mandatory parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); an adult offender under supervision serving a special sentence of parole supervision for life; an adult offender who resides in New Jersey under the terms of Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.

...

#### SUBCHAPTER 2. COMMUNITY PLAN AND SUPERVISION

##### 10A:72-2.4 Violations of parole

(a) (No change.)

(b) The response to a violation of a condition of parole shall be proportional to the risk to the community posed by the parolee, the severity of the violation, and the potential for long-term positive outcomes. Responses may include, but not be limited to, the following:

1.-2. (No change.)

3. The imposition of a special condition requiring:

i. (No change.)

ii. Assignment to and successful completion of the electronic monitoring program or Global Positioning System (GPS) monitoring program, wherein electronic monitoring or GPS monitoring serves to address violations of conditions of supervision;

iii.-iv. (No change.)

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

SUBCHAPTER 3. POLYGRAPH EXAMINATION OF SEX OFFENDERS

10A:72-3.6 Polygraph examination disclosure form

- (a) (No change.)
- (b) The disclosure form shall include, but not be limited to:
  - 1.-4. (No change.)
  - 5. That the valid exercise of the right to remain silent does not constitute failure to fully participate and/or cooperate with the examination;
    - i. An offender validly invokes the right to remain silent, without consequence, if the answer to any question asked throughout any portion of the polygraph examination process as defined in N.J.A.C. 10A:72-3.7(a) could form the basis of an independent criminal investigation.
  - 6.-9. (No change.)

SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES

10A:72-6.1 Search of parolees; when authorized; scope

- (a)-(f) (No change.)
- (g) A parolee shall be searched prior to being transported pursuant to N.J.A.C. 10A:72-8.1 to 8.4.

SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND

10A:72-7.1 Procedures for handling contraband upon discovery

- (a) Whenever an item, article, or material is determined to be contraband pursuant to N.J.A.C. 10A:72-1.1, the contraband shall be immediately seized.
- (b)-(d) (No change.)

SUBCHAPTER 10. CURFEW, ELECTRONIC MONITORING, AND GLOBAL POSITIONING SYSTEM (GPS) MONITORING

10A:72-10.1 Criteria

- (a) (No change.)
- (b) The District Parole Supervisor or designee may effectuate the general condition of curfew or impose a special condition that the offender abide by an assigned curfew, participate in electronic monitoring, or GPS monitoring if:
  - 1.-2. (No change.)

10A:72-10.2 Specifications

- (a) The curfew, electronic monitoring, or GPS monitoring period established pursuant to N.J.A.C. 10A:72-10.1(b) shall comply with the following specifications:
  - 1.-5. (No change.)
  - 6. A District Parole Supervisor or designee shall review the curfew, electronic monitoring, or GPS monitoring period no less than 90 days after imposition to determine if it remains warranted; and
  - 7. Any extension of the curfew, electronic monitoring, or GPS monitoring period beyond 180 days shall require an additional review by the District Parole Supervisor or designee and shall conform with the procedures in N.J.A.C. 10A:72-10.3.

10A:72-10.3 Procedure

- (a)-(c) (No change.)
- (d) If the offender does not contest the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the offender shall be advised that the curfew, electronic monitoring, or GPS monitoring condition shall be effectuated immediately.
- (e) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the curfew, electronic monitoring, or GPS monitoring condition and exigent circumstances do not exist as to require the immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition, the following procedures shall apply:

1.-3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition to a Board panel. If the offender contests the imposition of the curfew, electronic monitoring, or GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

(f) If the offender contests the allegations, the conclusions to be drawn from the allegations or the justification supporting the imposition of the curfew, electronic monitoring, or GPS monitoring condition and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition, the following procedures shall apply:

1. The District Parole Supervisor or designee shall review the offender's case within 24 hours of the determination to impose the curfew, electronic monitoring, or GPS monitoring condition to determine whether exigent circumstances do exist as to require immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition and shall verbally advise the offender and the assigned parole officer of his or her determination. If the District Parole Supervisor or designee determines that exigent circumstances exist, the District Parole Supervisor or designee shall also provide written notice to the offender as to the basis for the determination;

2. If the District Parole Supervisor or designee determines that exigent circumstances do exist, the curfew, electronic monitoring, or GPS monitoring condition shall be effectuated immediately;

3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition and, if exigent circumstances were found to exist by the District Parole Supervisor or designee, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to a Board panel. If the offender contests the imposition of the curfew, electronic monitoring, or GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

10A:72-10.4 Board panel review

(a) Upon receipt of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the basis for the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District Parole Supervisor or designee, if submitted, and any attendant documents, a Board panel shall review the offender's case.

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

10A:72-10.8 Hearing; record

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

(d) A copy of the hearing report shall be forwarded to the offender, District Parole Supervisor or designee, and to the Board panel within seven days of the hearing.

(e) (No change.)

10A:72-10.9 Hearing; notice of decision

Within 21 days of the hearing, the Board panel shall render a decision. Written notice of the decision shall be provided to the offender and the District Parole Supervisor or designee.

#### SUBCHAPTER 11. SEX OFFENDER GLOBAL POSITIONING SYSTEM (GPS) MONITORING PROGRAM

10A:72-11.2 Global positioning system (GPS) monitoring referral procedure

(a)-(g) (No change.)

(h) If the offender contests the basis supporting the GPS monitoring referral and exigent circumstances do not exist as to require immediate GPS monitoring, the following procedures shall apply:

1.-2. (No change.)

3. The District Parole Office shall forward a copy of the written notice of the GPS monitoring referral to the Director, Division of Parole. If the offender contests the GPS monitoring referral and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Director, Division of Parole, for consideration.

4.-5. (No change.)

(i) If the offender contests the basis supporting the GPS monitoring referral and the District Parole Office believes that exigent circumstances do exist as to require immediate GPS monitoring, the following procedures shall apply:

1. The Supervising Parole Officer shall review the offender's case within 24 hours of the determination to immediately forward the GPS monitoring referral to determine whether exigent circumstances do exist as to require immediate forwarding of the GPS monitoring referral and shall verbally advise the District Parole Office of his or her determination. If the Supervising Parole Officer determines that exigent circumstances exist, the District Parole Office shall provide written notice to the offender as to the basis for the determination.

2.-3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the GPS monitoring referral and, if exigent circumstances were found to exist by the Supervising Parole Officer, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to the Director, Division of Parole. If the offender contests the GPS monitoring referral and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Director, Division of Parole, for consideration.

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Director, Division of Parole, for consideration.

(j) Upon receipt of the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District Parole Supervisor or designee, if submitted, and any attendant documents, the Director, Division of Parole, or designee shall review the offender's case.

(k) Upon review of the offender's case, the Director, Division of Parole, or designee shall forward, within five business days, the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District

Parole Supervisor or designee, if submitted, any attendant documents, and his or her recommendation as to the appropriateness of GPS monitoring to the Chairperson of the State Parole Board for review.

10A:72-11.3 Chairperson of the State Parole Board (Chairperson) review

(a) Upon receipt of the written notice of GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District Parole Supervisor or designee, if submitted, any attendant documents, and the recommendation of the Director, Division of Parole, or designee, the Chairperson shall review the offender's case.

(b)-(c) (No change.)

#### SUBCHAPTER 14. INTERNET ACCESS CONDITION

10A:72-14.1 Criteria

(a) This subchapter applies to the imposition of a special condition prohibiting an offender access to the Internet (Internet access condition) in the cases of offenders serving a special sentence of community or parole supervision for life.

(b) The District Parole Supervisor or designee may impose a special condition prohibiting an offender from accessing the Internet if:

1. There is a specific and articulable reason and a clear purpose for the imposition of the Internet access condition; and

2. The imposition of the Internet access condition will act as an aid to the offender's re-entry effort, will promote the rehabilitation of the offender, is deemed necessary to protect the public, or will reduce recidivism by the offender.

(c) The Internet access condition shall include, but not be limited to, the following:

1. The offender is to refrain from the possession and/or utilization of any computer and/or device that permits access to the Internet unless specifically authorized by the District Parole Supervisor or designee. If the District Parole Supervisor or designee permits use of a computer and/or device that is capable of accessing the Internet, the offender shall be subject to the following restrictions and conditions:

i. The offender is to refrain from accessing the Internet from any computer and/or device at any time or for any reason unless authorized by the District Parole Supervisor or designee;

ii. The offender is prohibited from possessing or using any data encryption techniques and/or software programs that conceal, mask, alter, eliminate, and/or destroy information, and/or data from a computer and/or device;

iii. The offender agrees to install on the computer and/or device, at his or her expense, one or more hardware or software system(s) to monitor computer and/or device use if such hardware or software system(s) is(are) determined to be necessary by the District Parole Supervisor or designee;

iv. The offender agrees to permit the monitoring of the computer and/or device activity by a parole officer and/or computer/device specialist through the use of electronic means;

v. The offender is subject to periodic unannounced examinations of the computer and/or device by a parole officer or designated computer/device specialist, including the retrieval and copying of all data from the computer and/or device and any internal or external peripherals and removal of such equipment to conduct a more thorough inspection; and

vi. The offender is to disclose all **\*usernames and\*** passwords used by him or her to access any **\*computer/device, e-mail address, and approved social networking service or chat room, as well as any other username(s) and password(s) used by him or her to access any\*** data, information, image, program, signal, or file on the computer/device **\*deemed necessary by a parole officer to ensure compliance with the conditions of supervision\***.

10A:72-14.2 Procedure

(a) Upon a determination by the District Parole Supervisor or designee to impose a special condition prohibiting an offender access to the Internet (Internet access condition), the offender shall be served in

person with written notice of the imposition of the Internet access condition. The written notice shall include the basis for the imposition of the Internet access condition.

(b) The offender shall be provided with a written informational statement that details the procedure for the imposition of the Internet access condition.

(c) The offender shall indicate in writing whether he or she contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition.

(d) If the offender does not contest the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition, the offender shall be advised that the Internet access condition shall be effectuated immediately.

(e) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition and exigent circumstances do not exist as to require the immediate effectuation of the Internet access condition, the following procedures shall apply:

1. The offender shall be advised that he or she will have 10 business days to submit a written statement or documentation to the District Parole Office to be considered before the Internet access condition becomes effective;

2. The offender shall be advised that if the offender fails to submit a written statement or documentation within 10 business days, the Internet access condition shall become effective immediately upon the expiration of the 10 business days;

3. If the offender submits a written statement or documentation within 10 business days, the Internet access condition shall not be effectuated until such time as a Board panel authorizes the effectuation of the Internet access condition;

4. The District Parole Office shall forward a copy of the written notice of the imposition of the Internet access condition to a Board panel. If the offender contests the imposition of the Internet access condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. An offender shall not be precluded from submitting a written statement or documentation to the District Parole Office after the expiration of the 10-business-day time period. However, the failure to comply with the 10-business-day time period shall result in the immediate effectuation of the Internet access condition; and

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the 10-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

(f) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the Internet access condition, the following procedures shall apply:

1. The District Parole Supervisor or designee shall review the offender's case within 24 hours of the determination to impose the Internet access condition to determine whether exigent circumstances do exist as to require immediate effectuation of the Internet access condition and shall verbally advise the offender and the assigned parole officer of his or her determination. If the District Parole Supervisor or designee determines that exigent circumstances exist, the District Parole Supervisor or designee shall also provide written notice to the offender as to the basis for the determination;

2. If the District Parole Supervisor or designee determines that exigent circumstances do exist, the Internet access condition shall be effectuated immediately;

3. The offender shall be advised that he or she will have 10 business days to submit a written statement or documentation to be considered;

4. The District Parole Office shall forward a copy of the written notice of the Internet access condition and, if exigent circumstances were found to exist by the District Parole Supervisor or designee, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to a Board panel. If the offender contests the imposition of the Internet access condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. An offender shall not be precluded from submitting a written statement or documentation to the District Parole Officer after the expiration of the 10-business-day time period; and

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the 10-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

#### 10A:72-14.3 Board panel review

(a) Upon receipt of the written notice of a special condition prohibiting an offender access to the Internet (Internet access condition), the basis for the imposition of the Internet access condition, the written statement of the offender, if submitted, and any attendant documents, a Board panel shall review the offender's case.

(b) The Board panel shall determine whether to affirm or vacate the imposition of the Internet access condition.

(c) The offender and District Parole Office shall be notified in writing of the Board panel's decision.

#### 10A:72-14.4 Division of Parole review

(a) A District Parole Supervisor or designee shall review a special condition prohibiting an offender access to the Internet (Internet access condition) \*[no less than]\* one year from the effective date of the Internet access condition and \*[, if necessary,]\* on an annual basis thereafter to determine if it remains warranted.

(b) The District Parole Supervisor or designee shall review the Internet access condition utilizing the criteria specified in (c) below.

(c) The review of the Internet access condition shall include, but not be limited to, an assessment as to whether:

1. There is a reasonable basis to preclude access to the Internet;

2. Internet use is consistent with the continued rehabilitation of the offender and will not compromise public safety;

3. The offender is in compliance with the conditions of supervision;

4. The offender has met the goals listed in his or her Case Plan Agreement and is progressing in a pro-social manner; and

5. The offender's treatment provider, if the offender is presently participating in counseling, is of the opinion that Internet access will promote the rehabilitation of the offender and assist the offender's re-entry efforts.

(d) Upon completion of the review of the Internet access condition, the District Parole Supervisor or designee shall determine whether to continue or vacate the Internet access condition.

(e) If the District Parole Supervisor or designee determines to continue the Internet access condition, the continuation shall conform with the procedures in N.J.A.C. 10A:72-14.2 and 14.3. However, if the offender contests the justification supporting the extension of the Internet access condition, the Internet access condition shall remain in effect until the Board panel has reviewed the offender's case and determined whether to continue or vacate the extension of the Internet access condition.

(f) If the District Parole Supervisor or designee determines to vacate the Internet access condition, the District Parole Supervisor or designee shall notify the offender in writing of the decision. The decision shall also be recorded in the chronological supervision report.