

APPENDIX TO PART VII

GUIDELINES FOR OPERATION OF PLEA AGREEMENTS IN THE MUNICIPAL COURTS OF NEW JERSEY

GUIDELINE 1. ... no change

GUIDELINE 2. ... no change

GUIDELINE 3. ... no change

GUIDELINE 4. LIMITATION.

No plea agreements whatsoever will be allowed in drunken driving or certain drug offenses. Those offenses are:

- A. Driving while under the influence of liquor or drugs (N.J.S.A. 39:4-50) and
- B. Possession of marijuana or hashish (N.J.S.A. 2C:35-10a(4)), being under the influence of a controlled dangerous substance or its analog (N.J.S.A. 2C:35-10b), and use, possession or intent to use or possess drug paraphernalia, etc. (N.J.S.A. 2C:36-2).

No plea agreements will be allowed in which a defendant charged for a violation of N.J.S.A. 39:4-50 with a blood alcohol concentration of 0.10% or higher seeks to plead guilty and be sentenced under section a(1)(i) of that statute (blood alcohol concentration of .08% or higher, but less than 0.10%).

If a defendant is charged with a second or subsequent offense of driving while under the influence of liquor or drugs (N.J.S.A. 39:4-50) and refusal to provide a breath sample (N.J.S.A. 39:4-50.2) arising out of the same factual transaction, and the defendant pleads guilty to the N.J.S.A. 39:4-50 offense, the judge, on recommendation of the

prosecutor, may dismiss the refusal charge. A refusal charge in connection with a first offense N.J.S.A. 39:4-50 charge shall not be dismissed by a plea agreement, although a plea to a concurrent sentence for such charges is permissible.

Except in cases involving an accident or those that occur when school properties are being utilized, if a defendant is charged with driving while under the influence of liquor or drugs (N.J.S.A. 39:4-50(a)) and a school zone or school crossing violation under N.J.S.A. 39:4-50(g), arising out of the same factual transaction, and the defendant pleads guilty to the N.J.S.A. 39:4-50(a) offense, the judge, on the recommendation of the prosecutor, may dismiss the N.J.S.A. 39:4-50(g) charge.

If a defendant is charged with more than one violation under Chapter 35 or 36 of the Code of Criminal Justice arising from the same factual transaction and pleads guilty to one charge or seeks a conditional discharge under N.J.S.A. 2C:36A-1, all remaining Chapter 35 or 36 charges arising from the same factual transaction may be dismissed by the judge on the recommendation of the prosecutor.

Nothing contained in these limitations shall prohibit the judge from considering a plea agreement as to the collateral charges arising out of the same factual transaction connected with any of the above enumerated offenses in Sections A and B of this Guideline.

The judge may, for certain other offenses subject to minimum mandatory penalties, refuse to accept a plea agreement unless the prosecuting attorney represents that the possibility of conviction is so remote that the interests of justice requires the acceptance of a plea to a lesser offense.

SUPREME COURT COMMENT ... no change

Note: Guidelines and Comment adopted June 29, 1990, simultaneously with former Rule 7:4-8 ("Plea Agreements") to be effective immediately; as part of 1997 recodification of Part VII rules, re-adopted without change as Appendix to Part VII and referenced by Rule 7:6-2 ("Pleas, Plea Agreements"), October 6, 1997 to be effective February 1, 1998; Guideline 4 amended July 5, 2000 to be effective September 5, 2000; Guidelines 3 and 4 amended July 28, 2004 to be effective September 1, 2004; Guideline 4 amended June 15, 2007 to be effective September 1, 2007.