



Department of Corrections and Rehabilitation

**NOTICE OF CHANGE TO
REGULATIONS**

**Section(s): 3375.1(a)(4)(A) THROUGH
3375.1(a)(4)(D) AND 3377.**

Number:

15-08

Publication Date:

October 2, 2015

Effective Date:

September 15, 2015

INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed adoptions and or amendments of subsection(s) 3375.1(a)(4)(A); 3375.1(a)(4)(B); 3375.1(a)(4)(C); 3375.1(a)(4)(D), and 3377 the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR, provisions concerning Level IV 180/270 Housing Criteria of inmates.

IMPLEMENTATION: Immediately.

PUBLIC COMMENT PERIOD

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation, Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, by fax to (916) 324-6075, or by e-mail to RPMB@cdcr.ca.gov. All written comments must be received by the close of the public comment period **November 20, 2015, at 5:00 p.m.**

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held **November 20, 2015, from 10:00 a.m. to 11:00 a.m. in the Kern room, located at 1515 S Street, North Building, Sacramento, CA 95811.** The purpose of the hearing is to receive oral comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

POSTING

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies, and shall distribute it to inmate law libraries and advisory councils. CDCR Form 621-A (Rev. 09/14), Certification of Posting, shall be returned to the RPMB electronically, by fax, or by mail. See Department Operations Manual Sections 12010.12.1 and 12010.12.2 for posting and certification of posting procedures.

CONTACT PERSON

Inquiries regarding this Notice should be directed to Timothy M. Lockwood, Chief, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2269 or e-mail RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to Chris MacDonald, Captain, Classification Services Unit, at (916) 445-1810.

/Original Signed By/

SCOTT KERNAN
Undersecretary, Operations
California Department of Corrections and Rehabilitation

Attachments

NOTICE OF PROPOSED REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to adopt subsections 3375.1(a)(4)(A) through 3375.1(a)(4)(D) and amend section 3377(d) of the California Code of Regulations (CCR), Title 15, Division 3, concerning Level IV 180-degree design and 270-degree design housing criteria of inmates.

PUBLIC HEARING:

Date and Time: November 20, 2015 - 10:00 a.m. to 11:00 a.m.

Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street – North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close **November 20, 2015 at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Laura Lomonaco, Correctional Counselor II
Regulation and Policy Management Branch
Telephone (916) 445-2217

Questions regarding the substance of the proposed regulatory action should be directed to:

C. MacDonald, Captain
Classification Services Unit
California Department of Corrections and Rehabilitation
(916) 445-1810

AUTHORITY AND REFERENCE:

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 provides that an Emergency adoption, amendment, or repeal of a regulation by the Director shall be conducted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

In this regulatory action, the Secretary proposes to adopt and amend regulatory provisions pertaining to the housing of Level IV inmates incarcerated in CDCR. Level IV housing includes 180-design and 270-design facilities for general population (GP) inmates. The Level IV 180-design is considered the most secure for GP housing and the 270-design facility is considered less secure.

This current practice has proven effective in that inmates have been properly housed and/or placed programs in accordance with individual case factors. However, in 2014 it was determined that this statewide practice met regulatory criteria, and had not been codified in accordance with the Administrative Procedure Act. This proposed action will establish governing authority in order to standardized criteria for Level IV housing decisions.

The proposed regulations further the efforts of the Department to provide clarification to inmates and staff, that Level IV housing decisions are based upon regulations that have the force of law and are applied consistently throughout CDCR prison facilities.

This action provides the following:

- Adopts sections subsections 3375.1(a)(4)(A) through 3375.1(a)(4)(D) and amends subsection 3377(d) into CCR, under Chapter 1, Article 10 concerning Classification.
- Provides a specific list of offenses or disciplinary issues which can result in an inmate being housed in a more secure environment on a Level IV 180-design facility. In contrast, it allows for inmates that are programming in a positive manner to be housed in a less secure environment of a Level IV 270-design facility.
- Provides a criteria and direction to CDCR staff for housing of inmates in a Level IV 180-design or Level IV 270-design according to specific case factors, which will ensure consistency throughout the CDCR.
- Provides a definition of Level IV 180-design housing and Level IV 270-design housing.

FORMS INCORPORATED BY REFERENCE:

No forms incorporated.

BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The proposed regulatory action will benefit the protection of and safety of CDCR staff and inmates by establishing governing authority and providing specific criteria for determining appropriate housing of Level IV inmates and will continue to maintain the safety and security of the public, institutions, staff, and inmates by making 180-Design/270-Design housing determinations based upon an inmate's behavior in conjunction with case factors. This will allow CDCR staff to manage the Level IV inmate population by separating inmates who continue to refuse to program, from those who are more amenable to increased programming opportunity, which will assist in the reduction of the inmate population.

The Department has determined this will ensure consistent and fair application on a statewide basis, and provide clarity to staff, inmates and their families on the Level IV housing process. The proposed regulations also provides a definition of Level IV 180-design housing and Level IV 270-design housing, so members of the staff, public and inmates are aware of the different structural designs.

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING LAWS/REGULATIONS:

Pursuant to Government Code 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. The Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded these are the only regulations that concern Level IV 180-design and 270-design housing within the CCR, Title 15, and Division 3.

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

FISCAL IMPACT STATEMENT:

- **Cost to any local agency or school district that is required to be reimbursed:** *none*
- **Cost or savings to any state agency:** *none*
- **Other nondiscretionary cost or savings imposed on local agencies:** *none*
- **Cost or savings in federal funding to the State:** *none*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:

The Department has determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations will not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

The Department has determined that the proposed regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no effect on the health of California residents or the state's environment, because the proposed regulations relate strictly to the internal management of CDCR institutions.

The Department has determined the proposed regulations will have a positive impact on California residents and inmates, by housing inmates who continue to refuse to program separate from those who are more amenable to increased programming opportunity, and assist in the reduction of inmates.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Interested persons are accordingly

invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text, and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend California Code of Regulations (CCR), Title 15, Division 3, section 3375.1 Inmate Placement, by adopting subsections 3375.1(a)(4)(A); 3375.1(a)(4)(B); 3375.1(a)(4)(C) and 3375.1(a)(4)(D) to specifically identify the criteria for housing a Level IV inmate into either a 180-degree design or 270-degree design facility. CDCR also proposes to amend Title 15, Division 3, subsection 3377(d) Facility Security Levels, to provide a definition for Level IV 180-design and 270-design housing.

Upon arrival to CDCR, inmates are processed through a Reception Center (RC), in order to complete the classification process. The classification process is conducted by CDCR staff and includes a review of the inmate's case factors, which results in the inmate being assigned a Placement Score. Placement Scores are determined by a review of an inmate's case factors including but not limited to: age, crime committed, prior incarcerations, history of violence, and Security Threat Group (STG) affiliation (prison gangs, street gangs, and disruptive groups).

The Placement Score is the primary factor used in determining the security level of the inmate and the appropriate facility to house the inmate to ensure the safety, security, treatment, and rehabilitative needs of the inmate are met, as well as the safety of staff, inmates and security of the institution. Once the classification process is completed, the inmate is transferred to a facility which corresponds with their placement score, security level, and case factors such as medical or mental health needs.

Each year a review is performed by a counselor to determine if an inmate meets the criteria to have his/her placement score reduced. An inmate has the opportunity to reduce their score if they have been programming and have not received any disciplinary actions. In contrast, an inmate's score and subsequent housing level can be increased due to receiving disciplinary actions.

Security levels within CDCR facilities consist of Levels I, II, III, IV, and the Security Housing Unit (SHU). Level I housing is designated for inmates who require the least secure housing and supervision, Level II and III require more secure housing and supervision; and Level IV is designated for inmates who require the most secure housing and direct supervision. Level IV housing includes 180-design and 270-design facilities for general population (GP) inmates. The SHU is designated for inmates who are segregated from the general population and require maximum security and supervision.

A 180-design facility has housing units that are partitioned into three separate, self-contained sections forming a 180 degree half circle. The 180-design is considered the most secure because it gives control-booth officers a straight-on look at all prisoners in the housing unit. The 270-design facility housing is designed with portions of the unit reaching back behind the control-booth, resulting in less direct supervision of inmates and is considered less secure than a 180-design.

This current practice has proven effective in that inmates have been properly housed and/or placed programs in accordance with individual case factors. However, in 2014 it was determined that this statewide practice met regulatory criteria, and had not been codified in accordance with the Administrative Procedure Act. This proposed action is necessary to establish governing authority to standardized criteria for Level IV housing decisions. This will also provide clarification to inmates that Level IV housing decisions are based upon regulations that have the force of law and are applied consistently throughout CDCR prison facilities.

Consideration of Alternatives:

The Department must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Currently, no reasonable alternatives have been brought to the attention of the Department that would alter the Department's initial determination.

Economic Impact Assessment:

CDCR has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there have been no facts, evidence, documents, testimony, or other evidence provided that would alter the Department's initial determination.

In accordance with Government Code Section 11346.3(b), the CDCR has made the following assessments regarding the proposed regulations:

Creation or Elimination of Jobs within the State of California

The Department has determined that the proposed regulations will not have an impact on the creation of new or elimination of existing jobs within California as the proposed regulations affects the internal management of prisons only.

Creation of New, Expansion or the Elimination of Existing Businesses Currently Doing Business within the State of California

The Department has determined the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California, or affect the expansion of businesses currently doing business in California as the proposed regulations affect the internal management of prisons only.

Significant Adverse Economic Impact on Business

The Department has made an initial determination that the regulatory action will not have a significant adverse economic impact on business. The proposed regulations do not have a direct impact on California businesses as the proposed regulations affect the internal management of prisons only.

Local Mandates

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

Benefits of the Regulations

The proposed regulatory action will benefit the protection and safety of CDCR staff and inmates by establishing governing authority and providing specific criteria for determining appropriate housing of Level IV inmates; and will continue to maintain the safety and security of the public, institutions, staff, and inmates by making 180-Design/270-Design housing determinations based upon an inmate's behavior in conjunction with case factors. This will allow CDCR staff to manage the Level IV inmate population by separating inmates who continue to refuse to program, from those who are more amenable to increased programming opportunity, which will assist in the reduction of the inmate population.

The Department has determined this will ensure consistent and fair application on a statewide basis, and provide clarity to staff, inmates and their families on the Level IV housing process. The proposed regulations also provides a definition of Level IV 180-design housing and Level IV 270-design housing, so members of the staff, public and inmates are aware of the different structural designs.

The proposed regulation will have no effect on the health of California residents, worker safety, or the State's environment.

Reports Relied Upon

The department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

Specific Purpose and Rationale for each Section, per Government Code 11346.2(b) (1):

3375.1 Inmate Placement.

Subsections 3375.1(a) through 3175.1 (a)(4) are unchanged.

New Subsection 3375.1(a)(4)(A) is adopted to establish the criteria for housing an inmate in a Level IV 180-design or Level IV 270-design housing. Specific criteria is necessary so members of the staff, public and inmates are aware of how such housing is determined.

New Subsection 3375.1(a)(4)(A)1 is adopted to establish that inmates who have served a determinate SHU term within the last three years of incarceration are excluded from housing in a Level IV 270-design facility for three years from the established Minimum Eligible Release Date (MERD). The MERD is the minimum date an inmate can be released from SHU. For example, if an inmate has a MERD of 1-1-16, they are excluded from Level IV 270-design housing for three years from the 1-1-16, MERD date. This criteria is necessary as these inmates have demonstrated disciplinary concerns which warrant more secure housing and direct supervision that the 180-design housing provides. The Department has determined the three year exclusion is necessary as an observation period to ensure the inmate is no longer a threat to the safety of staff, inmates and security of the institution.

New Subsection 3375.1(a)(4)(A)2 is adopted to establish that inmates who are found guilty of a Rules Violation Report (RVR) for Division A-1, A-2 or B disciplinary offenses are excluded from Level IV 270-design housing for three years effective upon their arrival in a GP facility. These offenses meet the criteria for a felony charge per the California Penal Code, and include but are not limited to, Murder; Battery with Serious Bodily Injury; Arson; Extortion and Threats to Kill. Inmates who have committed these types of offenses have demonstrated disciplinary concerns which warrant more secure housing and direct supervision that the 180-design housing provides. The Department has determined the three year exclusion is necessary as an observation period to ensure the inmate is no longer a threat to the safety of staff, inmates and security of the institution.

New Subsection 3375.1(a)(4)(A)3 is adopted to establish that inmates found guilty of one RVR for Inciting a Riot within a twelve month period, are excluded from Level IV 270-design housing for one year from the date the inmate was found guilty. This is necessary because inmates who commit this offense are a threat to the safety of staff, inmates and security of the institution; therefore, requiring housing in a more secure Level IV 180-design with direct supervision. This 270-design exclusion is established at one year to allow sufficient evaluation of an inmate who participates in behavior (Inciting a Riot) that often results in the serious injury of others.

New Subsection 3375.1(a)(4)(A)4 is adopted to establish that inmates found guilty of two RVRs for Battery on an Inmate within a twelve month period or one RVR for Battery on an Inmate with direct Security Threat Group (STG) connection shall be excluded from Level IV 270-design housing for one year from the date the inmate was found guilty of the last RVR. Inmates who commit these offenses are a threat to the safety of staff, inmates and security of the institution; therefore, housing in a more secure Level IV 180-design requiring direct supervision is necessary. The Department has determined the one year exclusion is necessary as an observation period to ensure the inmate is no longer a threat to the safety of staff, inmates and security of the institution.

New Subsection 3375.1 (a)(4)(A)5 is adopted to establish that inmates released from SHU after serving an Administrative SHU term shall be reviewed by an Institution Classification Committee (ICC) to determine whether to house the inmate in 180-design or 270-design housing. It is necessary for the ICC to review the inmate's case factors in determining the level of security and supervision required to ensure institutional safety. This 270-design exclusion is established at two years to allow sufficient evaluation of an inmate who has been determined to be a severe enough threat to the safety of staff, inmates, and the public and to the security of an institution to warrant an Administrative SHU term.

New Subsection 3375.1 (a)(4)(A)6 is adopted to establish inmates found guilty of two RVRs for Participation in a Riot within a twelve month period, shall be evaluated by committee to determine whether to house the inmate in 180-design or 270-design housing. It is necessary for the committee to assess the inmate's case factors such as, the circumstances of the offense, and disciplinary history. This is to determine whether to house the inmate in a more secure setting as the 180-design, or less secure 270-design housing. This 270-design exclusion is established at one year to allow sufficient evaluation of an inmate who participates in behavior (participation in a riot) that often results in the serious injury of others.

New Subsection 3375.1 (a)(4)(A)7 is adopted to establish inmates identified as a security concern during the RC process, are excluded for one year from a 270-design facility, from the date of the Classification Staff Representative (CSR) endorsement. The CSR authorizes the placement of an inmate at a specific institution, based upon documented case factors. This is necessary to ensure the safety and security of staff, inmates and the institution because these inmates have demonstrated they are an ongoing security risk and require direct and constant supervision. This 270-design exclusion is established at one year to allow sufficient evaluation of an inmate whose documented case factors demonstrate an ongoing security risk.

New Subsection 3375.1(a)(4)(A)8 is adopted to specify that inmates who do not meet the criteria for Level IV 270-design housing, and have been identified as having exceptional needs, can still be housed in a 270-design facility. These exceptional placements are necessary to ensure the inmate has access to medical, mental health or any disability programs which may not be available in a Level IV 180-design facility.

New Subsection 3375.1(a)(4)(B) is adopted establishing that inmates are subject to the 180-design and 270-design housing criteria pending the disciplinary process. This language is necessary to give staff direction for housing decisions of inmates pending the outcome of the disciplinary process.

New Subsection 3375.1(a)(4)(C) is adopted to refer staff to the appropriate section of the CCR for documenting the Level IV housing decisions.

New Subsection 3375.1(a)(4)(D) is adopted to establish that the ICC, through a committee action, has the authority to override Level IV housing decisions. This is necessary in the event there are specific case factors relating to an inmate which warrant alternate placement. For example, if an inmate meets the criteria for housing in a Level IV 270-design facility, and case factors indicate he/she is a security risk due to documented violent behavior, the ICC has discretion to house the inmate in a more secure environment, on a Level IV 180 facility. In contrast, if an inmate meets the criteria for 180 housing, and has shown a pattern and history of positive programming, such as remaining disciplinary free, the ICC has the discretion to house the inmate in a less secure Level IV 270-design facility.

Subsection 3377(d) is amended to provide a definition for Level IV 180-design and 270-design facilities. Institution and facility designs continue to evolve with the security needs of the Department. The 270-design is an older designed facility that houses Level IV inmates who are considered to be less of a security and safety threat to the public, staff and inmates. The 180-design facility is the newest housing design that was developed to house Level IV inmates whose specific case factors, such as criminal record and disciplinary history make them more of a threat to the safety and/or security to the public, staff and inmates. This definition is necessary so staff, public and inmates are aware of the different structural designs between a Level IV 180-design and Level IV 270-design facility.

TEXT OF PROPOSED REGULATIONS- In the following, underline indicates additional text, and ~~strikethrough~~ indicates deleted text.

*California Code of Regulations, Title 15: Crime Prevention and Corrections
Division 3. Rules and Regulations of Adult Institutions, Programs and Parole*

Subchapter 4. GENERAL INSTITUTION REGULATIONS

Article 10. Classification

3375.1. Inmate Placement

Subsections 3375.1(a) through 3375.1(a)(4) are unchanged but shown as reference.

(a) Except as provided in section 3375.2, each inmate shall be assigned to a facility with a security level which corresponds to the following placement score ranges:

- (1) An inmate with a placement score of 0 through 18 shall be placed in a Level I facility.
- (2) An inmate with a placement score of 19 through 35 shall be placed in a Level II facility.
- (3) An inmate with a placement score of 36 through 59 shall be placed in a Level III facility.
- (4) An inmate with a placement score of 60 and above shall be placed in a Level IV facility.

New Subsection 3375.1(a)(4)(A) through 3375.1(a)(4)(D) are adopted to read:

(A) Level IV facilities, as described in section 3377(d), include 180-design and 270-design housing. The criteria for housing an inmate in Level IV-180 design or Level IV-270 design housing includes:

1. Inmates who have served a determinate Security Housing Unit (SHU) term within the last three incarcerated years shall be excluded from Level IV 270-design housing for three years from the Minimum Eligible Release Date. The SHU Term must be assessed and served in a SHU or in an Administrative Segregation Unit (ASU).

2. Inmates found guilty of a Division A-1, A-2, or B disciplinary offense, as set forth in section 3323, within the last three incarcerated years shall be excluded from Level IV 270-design housing for three years from the date of arrival in general population (GP).

3. Inmates found guilty of one Rules Violation Report (RVR) for Inciting a Riot within a twelve month period shall be excluded from Level IV 270-design housing for one year from the date found guilty of the RVR for this offense.

4. Inmates found guilty of two or more RVRs for Battery on an Inmate within a twelve month period or found guilty of one RVR for Battery on an Inmate with direct Security Threat Group (STG) nexus shall be excluded from Level IV 270-design housing for one year from the date the inmate was found guilty of the most recent RVR for this offense.

5. Inmates released from SHU after serving an Administrative SHU Term shall be reviewed by ICC for 180-design or 270-design housing. Inmates excluded from Level IV 270-design housing shall be excluded for two years from the date of arrival into GP.

6. Inmates found guilty of two or more RVRs for Participation in a Riot within a twelve month period shall be reviewed by a classification committee for determination of Level IV 270-design housing. Inmates excluded from Level IV 270-design housing shall be excluded for one year from the date the inmate was found guilty of the most recent RVR for this offense.

7. If during Reception Center processing, and inmate is deemed a security concern and is potentially an ongoing threat to institutional safety and security, warranting more direct and constant supervision, the inmate shall be excluded from Level IV 270-design housing for one year from the date of the Classification Staff Representative endorsement.

8. Inmates excluded from Level IV 270-design housing but requiring exceptional placement may be housed in a Level IV 270-design facility. Exceptional placements, for purposes of this paragraph, are inmates who are in medical or mental health treatment programs, such as a developmental disability, Americans with Disabilities Act mobility impairment that impacts placement, or in need of specific medical programs which may not be available in Level IV 180-design facilities.

(B) If an RVR is pending for offense(s) listed in 3375.1(a)(4)(A)1 through 4, the classification committee may temporarily exclude an inmate from Level IV 270-design housing pursuant to the requirements set forth in subsections 3375.1(a)(4)(A) 1 through 4.

(C) Decisions for placement of inmates into 180-design or 270-design housing shall be documented pursuant to section 3375(g).

(D) The Institution Classification Committee may override placement of an inmate into 180-design or 270-design housing based upon: Department and institution's/facility's program security mission; public safety; and the inmate's needs and behavior.

Subsections 3375.1(b) through 3375.1(b)(2) are unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3020, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F Supp. 397; and; and *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302.

3377. Facility Security Levels

Subsections 3377(a) through 3377(c) are unchanged but shown as reference.

Each camp, facility, or area of a facility complex shall be designated at a security level based on its physical security and housing capability. Reception centers are not facilities of assignment and are exempt from the security level designations except for the assignment of permanent work crew inmates. The security levels are:

- (a) Level I facilities and camps consist primarily of open dormitories with a low security perimeter.
- (b) Level II facilities consist primarily of open dormitories with a secure perimeter, which may include armed coverage.
- (c) Level III facilities primarily have a secure perimeter with armed coverage and housing units with cells adjacent to exterior walls.

Subsection 3377(d) is amended to read:

(d) Level IV facilities have a secure perimeter with internal and external armed coverage and housing units described in section 3377(c), or cell block housing with cells non-adjacent to exterior walls. A Level IV 180-design facility utilizes housing units comprised of two wings; each wing is partitioned into three self-contained “pods”, each “pod” has its own dayroom and control room. Each wing is linked by a dining facility and ancillary functions. The design of the housing unit allows a 180 degree view of all cells and dayrooms from the control room. A Level IV 270-design facility utilizes housing units comprised of three connected sections and one dayroom. Portions of first and third sections extend back behind the blind side of the control room. The design of the housing unit places cells within a 270 degree circumference of a circle with the control room in the center of the circle.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 5054 and 5068, Penal Code.