

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text; underlining indicates added or amended text.

3040.1. Substance Abuse Programs for Inmates.

Subsections 3040.1(a) through 3040.1(a)(2) are amended to read:

(a) Prisons may establish substance abuse programs (SAP) to provide addiction and recovery treatment services to qualifying inmates. ~~SAP is not intended to provide medical or mental health treatment. Available services and duration of programs may vary, as determined by CDCR Adult Program staff consistent with institutional security and available resources.~~

(1) Except as provided in subsection (a)(2), a SAP is not intended to provide medical or mental health treatment. Available services and duration of programs may vary, as determined by CDCR Adult Program staff consistent with institutional security and available resources.

(2) Inmates enrolled in the Enhanced Outpatient Program (EOP) who have a co-occurring dual diagnosis of substance abuse may be considered for assignment to a SAP where it is a component of the mental health program.

Subsections 3040.1(b) through 3040.1(c)(5) remain unchanged.

(c) Inmates with the following case factors shall not be placed in an SAP:

New subsection 3040.1(c)(6) is adopted to read:

(6) Inmates who are enrolled in Inpatient or Enhanced Outpatient Program (EOP) services, except as provided in subsection (a)(2).

Subsections 3040.1(d) through 3040.1(i) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3043. Credit Earning.

Section 3043 Presentence through subsection 3043(c)(1) remain unchanged.

(c) Milestone completion credits.

(1) Milestone means the achievement of a distinct objective of a rehabilitative program as established by CDCR in the Milestone Completion Credit Schedule (see 3043(c)(6)). If an inmate is eligible for program credits pursuant to PC section 2933.05, reaching a milestone allows for awarding of such credits.

New subsections 3043(c)(1)(A) and 3043(c)(1)(B) are adopted to read:

(A) Milestone completion credits for GED academic achievements shall not be awarded to inmates already possessing a GED, high school equivalency/diploma or college degree.

(B) All inmates must sign the CDCR Form 2233 (Rev. 06/11), Inmate Declaration Of General Education Development (GED) Eligibility, which is hereby incorporated by reference, prior to taking any portion of the GED exam.

Subsections 3043(c)(2) through 3043(c)(5) remain unchanged.

Subsection 3043(c)(6) is amended to read:

(6) Specific milestone completions and credits awarded are established by Adult Programs on the Milestone Completion Credit Schedule (~~12/09~~ Rev. 05/11), which is hereby incorporated by reference. All changes to the Milestone Completion Credit Schedule shall be adopted in accordance with rulemaking requirements of the Administrative Procedures Act (Government Code sections 11340 through 11364).

Subsections 3043(c)(7) through 3043(h) remain unchanged.

Note: Authority cited: Sections 2700, 5058 and 5058.3, Penal Code. Reference: Sections 1170.05, 2931, 2933, 2933.05, 2935, 5054, 6260, 11189 and 11190, Penal Code; Section 3201, Welfare and Institutions Code; In re Monigold, 205 Cal. App. 3d 1224, and People v. Jones, 44 Cal. Rptr. 2d 164 (Cal. 1995).

3043.6. Impact of Transfer on Credit Earning.

Subsections 3043.6(a) through 3043.6(a)(2) remain unchanged.

(a) Non-adverse transfers.

Subsection 3043.6(a)(3) is amended to read:

(3) An inmate in a work assignment ~~vocational/training program, educational program, or SAP~~ at the sending institution shall ~~be assigned the same or similar program, if eligible, at the receiving institution unless the program has no vacancy or the program is unavailable. If the receiving institution's program is full or unavailable, the inmate shall be placed on an~~ any existing waiting list at the receiving institution. If eligible, inmates on waiting lists at sending institutions shall be merged into the receiving institution's waiting list based on credit earning status, release date, and the length of time they have spent on the sending institution's waiting list. Inmates who are day-for-day eligible per Penal Code section 2933 shall be given priority for assignment with the exception of Senate Bill (SB) 618 Participants who, as defined in section 3000, pursuant to the provisions of subsection 3077.3(b)(1), and subject to the provisions of 3077.3(f), shall be placed at the top of an institution's waiting list and given priority for assignment. Inmates shall be merged into the receiving institution's waiting list in the following manner:

Subsections 3043.6(a)(3)(A) through 3043.6(a)(3)(E) remain unchanged.

New subsection 3043.6(a)(4) is adopted to read:

(4) An inmate in an OCE approved academic, vocation program, or SAP at the sending institution shall be placed on the waiting list for the same or similar program, at the receiving institution if available. If the receiving institution's program is unavailable, the inmate shall be placed on an existing waiting list at the receiving institution. California Static Risk Assessment (CSRA) as described in Section 3768.1 shall be the primary determination for priority placement. Inmates with a CSRA of moderate to high shall take priority over those with a low risk assessment. Inmates shall be merged into the receiving institution's waiting list based on their CSRA and in accordance with subsection (3) above.

Subsections 3043.6(b) through 3043.6(f) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1203.8, 1364, 2684, 2690, 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

3044. Inmate Work Groups.

Subsections 3044(a) through 3044(b)(5) remain unchanged.

(b) Consistent with the provisions of section 3375 of these regulations, all assignments or reassignments of an inmate to a work group shall be by a classification committee action in accordance with this section.

(5) Work Group C: Disciplinary unassigned. Zero credit.

Subsection 3044(b)(5)(A) is amended to read:

(A) Any inmate who refuses to accept or perform in an assignment, or who is deemed a program failure as defined in section 3000, shall be placed in Work Group C for a period not to exceed the number of disciplinary credits forfeited due to the serious disciplinary infraction(s).

Subsections 3044(b)(5)(B) through 3044 (b)(6)(C) remain unchanged.

Subsection 3044(b)(7) is amended to read:

(7) Work Group D-2: Lockup Status. Inmates placed in SHU, PSU, or ASU for ~~misconduct~~ disciplinary related offenses described in Penal Code section 2933.6 or upon validation as a prison gang member or associate are ineligible to earn credits during placement in SHU, PSU, or ASU. Inmates placed in SHU, PSU, or ASU ~~due to~~ following the commission of any other serious disciplinary infraction(s) are ineligible to earn credits for a period not to exceed the number of disciplinary credits forfeited. Zero credit.

Subsections 3044(b)(7)(A) through 3044 (b)(7)(B) remain unchanged.

Subsection 3044(b)(7)(C) is adopted to read:

(C) An inmate in, ASU, SHU, or PSU, on indeterminate or determinate lockup status, who is deemed a program failure as defined in section 3000, may be assigned Work Group D-2 by a classification committee. An inmate assigned to Work Group C at the time of placement in ASU, SHU, or PSU, or who refuses to accept or perform work assignments, shall be assigned Work Group D-2. An inmate released from ASU, SHU, or PSU may be placed back into Work Group C by a classification committee not to exceed the remaining number of disciplinary credits forfeited due to the serious disciplinary infraction(s).

Existing Subsection 3044(b)(7)(C) is renumbered and relocated to new subsection 3044(b)(7)(D) and remains unchanged.

~~(C)~~(D) If the administrative finding of the misconduct is overturned or if the inmate is criminally prosecuted for the misconduct and is found not guilty, credit earning status shall be restored to the inmate's previously-designated workgroup at the time of placement into segregated housing.

Subsections 3044(b)(8) through 3044 (d)(1)(C) remain unchanged.

(d) Privilege Group A:

Subsection 3044(d)(2) is amended to read:

(2) Any inmate classified and assigned to Privilege Group A ~~shall~~ may receive a red CDC 130 Privilege Card with photo.

Subsections 3044(d)(3) through 3044(i) remain unchanged.

Note: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.05, 2933.3, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and In re Monigold, 205 Cal.App.3d 1224 (1988).

3045.1. Timekeeping for Inmates in Administrative Segregation.

Subsections 3045.1(a) through 3045.1(a)(1) remain unchanged.

(a) A classification committee shall evaluate the reasons for an inmate's administrative segregation (ASU) placement to ensure appropriate credits are awarded the inmate. If the placement was for:

Subsection 3045.1(a)(2) is amended to read:

(2) A disciplinary infraction for misconduct described in section 3043.4 for which the finding was guilty ~~and a SHU term assessed~~, the inmate shall remain in Work Group D-2 for the period of the credit loss assessment effective the date of their placement in ASU, whether or not a SHU term was assessed.

Note: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.05, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and In re Monigold, 205 Cal. App. 3d 1224.