

**State of California
Office of Administrative Law**

In re:
**Department of Corrections and
Rehabilitation**

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections: 3317.1, 3317.2

Amend sections: 3310, 3317

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Sections 11349.1 and
11349.6(d)**

OAL Matter Number: 2016-0420-03

**OAL Matter Type: Certificate of Compliance
(C)**

This rulemaking action by the Department of Corrections and Rehabilitation (Department) certifies emergency action number 2015-1028-01EON, which amends the Department's inmate discipline regulations by implementing requirements for consideration of an inmate's mental illness, developmental disability, or cognitive or adaptive functioning deficits during each stage of the disciplinary process for rule violations.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: May 24, 2016



**Eric J. Partington
Attorney**

**For: Debra M. Cornez
Director**

**Original: Scott Kernan
Copy: Rosie Ruiz**

NOTICE PUBLICATION/REGULATION SUBMISSION per agency request

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-1216-01	REGULATORY ACTION NUMBER 2016-0420-03C	EMERGENCY NUMBER
NOTICE		REGULATIONS	

For use by Office of Administrative Law (OAL) only

2016 APR 20 P 3:50
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

MAY 24 2016
3:21 PM

AGENCY WITH RULEMAKING AUTHORITY
California Department of Corrections and Rehabilitation

AGENCY FILE NUMBER (if any)
15-0195

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2015 52-2	PUBLICATION DATE 12/25/2015

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Inmate Discipline	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-1028-01EON		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 3317.1 and 3317.2 AMEND 3310 and 3317 REPEAL		
TITLE(S) 15			
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Rosie Ruiz	TELEPHONE NUMBER (916) 445-2244	FAX NUMBER (Optional) (916) 324-6075	E-MAIL ADDRESS (Optional) rosie.ruiz@cldr.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 4-18-16
TYPED NAME AND TITLE OF SIGNATORY RALPH M. DIAZ, Undersecretary, Operations	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 24 2016

Office of Administrative Law

TEXT OF ADOPTED REGULATIONS

In the following text, underline indicates additional text, and ~~striketrough~~ indicates deleted text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

Chapter 1, Rules and Regulations of Adult Operations and Programs

Subchapter 4. General Institution Regulations

Article 5. Inmate Discipline

3310. Definitions.

Subsections (a) through (c) are unchanged.

Subsection (d) is amended to read:

(d) Experienced means a permanent employee at the designated level, certified by the Chief Disciplinary Officer (CDO) or designee as competent to serve as a senior hearing officer or hearing officer, as specified. Requirements for certification shall include in-service or on-the-job training in disciplinary procedures, mental health assessment requirements, and observation of five serious/administrative disciplinary hearings. A probationary, limited term, or training and development employee at the designated staff level may be certified as experienced. Acting staff whose permanent position is at a level lower than that required shall not be assigned senior hearing officer/hearing officer responsibility.

Subsections (e) through (f) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 6252 and 6260, Penal Code.

3317. Mental Health Evaluations for Disciplinary Hearings.

Section 3317 title is amended to read:

Mental Health Assessments for Disciplinary Proceedings.

Existing language is deleted, and new subsections (a) through (g) are adopted to read:

(a) A Mental Health Assessment is a means to incorporate clinical input into the disciplinary process when mental illness or developmental disability/cognitive or adaptive functioning deficits may have contributed to behavior resulting in a Rules Violation Report. Mental Health Assessments shall be considered by the ~~h~~Hearing ~~o~~fficer or ~~s~~Senior ~~h~~Hearing ~~o~~fficer during disciplinary proceedings when determining whether an inmate shall be disciplined and when determining the appropriate method of discipline.

(b) Inmates who are alleged to have committed a Rules Violation shall receive a Mental Health Assessment, via completion of CDCR Form 115-MH-A (12/15), Rules Violation Report: Mental Health Assessment, which is incorporated by reference, for any of the following reasons:

(1) Inmate is a participant in the Mental Health Services Delivery System (MHSDS) at the Enhanced Outpatient Program (EOP) level of care.

(2) Inmate is a participant in the MHSDS at the Mental Health Crisis Bed (MHCB) level of care.

(3) Inmate is a participant in the MHSDS at the Psychiatric Inpatient Program, Acute Psychiatric Program or Intermediate Care Facility level of care.

(4) Inmate is a participant in the MHSDS at the Correctional Clinical Case Management System (CCCMS) level of care and has been charged with a Division A, B or C offense or any other rules violation which may result in the assessment of a Security Housing Unit term as defined in Section 3341.9, subsection (e).

(5) Inmate is a participant in the Developmental Disability Program (DDP) designated as DD1, DD2 or DD3.

(6) Inmate engaged in Indecent Exposure or Sexual Disorderly Conduct.

(7) Inmate displayed behavior that was bizarre or unusual for any inmate or uncharacteristic for the particular inmate at the time of the offense.

(c) Mental Health Services shall be contacted immediately for any inmate who is suspected of committing self-mutilation or attempted suicide. The emergency referral shall be documented via CDCR Form 128-MH5 (Rev. 05/14), Mental Health Referral Chrono, which is incorporated by reference, identifying the specific reason(s) for the referral. If Mental Health Services determines the behavior was an act of self-mutilation or attempted suicide or a clear determination could not be made, a CDC Form 115 (07/88), Rules Violation Report, shall not be issued. The behavior shall be documented on a CDC Form 128B (Rev. 04/74), General Chrono, for inclusion in the inmate's Central File.

(d) If the mental health clinician determines the inmate's actions were an attempt to manipulate staff, and were not an act of self-mutilation or attempted suicide, CDC Form 115 shall be issued pursuant to Section 3315, subsection (a)(3)(W).

(e) A CDCR Form 128-MH5 shall be completed for any inmate who displayed behavior that was bizarre or unusual for any inmate or uncharacteristic for the particular inmate at the time of the offense.

(f) When a mental health assessment is required, the reviewing custody supervisor shall request an assessment by completing a CDCR Form 115-MH-A and delivering it to the institution's mental health program within two calendar days of the information leading to the charges being discovered by staff. The mental health program shall complete the assessment and return it to the reviewing supervisor within eight calendar days of receipt.

~~(g) At any time during the disciplinary process, an authorized official, not to be delegated below the staff level of captain, may address the misconduct or otherwise handle the disciplinary action or Rules Violation pursuant to Section 3312, subsection (a), when information indicates that mental illness or developmental disability/cognitive or adaptive functioning deficits contributed to the inmate's behavior. The official hearing officer or senior hearing officer shall consider mental health staff's assessment, as documented on the CDCR Form 115-MH-A, and any other relevant information, when determining whether the inmate should be disciplined or the appropriate method of discipline because when mental illness or developmental disability/cognitive or adaptive functioning deficits contributed to the inmate's behavior. If an inmate is found guilty of the charge, the hearing officer or senior hearing officer shall consider any dispositional recommendations provided by mental health staff as documented on CDCR Form 115-MH-A or any other relevant information regarding the relationship between the inmate's mental illness and/or developmental disability/cognitive or adaptive functioning deficits, and his or her misconduct, when assessing penalties. the inmate's behavior was strongly influenced by mental illness or developmental disability/cognitive or adaptive functioning deficits. The official shall also consider mental health staff's assessment when determining whether punishment should be mitigated due to the inmate's mental illness or developmental disability/cognitive or adaptive functioning deficits.~~

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

New Section 3317.1 is adopted to read:

3317.1. Documenting Rules Violations in an Alternate Manner for Inmates in the Mental Health Services Delivery System or the Developmental Disability Program.

(a) If the inmate's behavior was so strongly influenced by symptoms of mental illness or developmental disability/cognitive or adaptive functioning deficits at the time the rules violation occurred, mental health staff may recommend via the CDCR Form 115-MH-A, Rules Violation Report: Mental Health Assessment, that the inmate would be better served by having the behavior documented in an alternate manner. Upon receipt of a completed CDCR Form 115-MH-A recommending documentation in an alternate manner by mental health staff, the reviewing custody supervisor shall forward the CDC Form 115, CDCR Form 115-MH-A and all other documents and information relevant to the charge to the Captain. The Captain shall review all documentation and return his or her decision to the hearing officer or senior hearing officer as soon as possible, but no later than five calendar days from the date of receipt. The Captain shall review the CDC Form 115 and all other documents and information relevant to the charge, as well as the recommendation offered by the clinician on the CDCR Form 115-MH-A.

(b) Based on his or her review, the Captain shall do one of the following:

(1) If the Captain does not agree with the clinician's recommendation, the Captain shall document his or her reasoning for proceeding with the disciplinary hearing on a CDC Form 128-B. The hearing officer shall proceed with hearing the Rules Violation Report as serious or administrative based on the nature of the specific charge(s). A copy of the CDC Form 128-B shall be attached to the CDC Form 115 and forwarded to the hearing officer for adjudication. A copy of the CDC Form 128-B shall be issued to the inmate no less than 24 hours prior to a hearing.

(2) If the Captain agrees with the clinician's recommendation, the Captain shall order the hearing officer to void the CDC Form 115 and either document the behavior via a CDC Form 128-A (08/87), Custodial Counseling, for minor misconduct, or document the behavior via a CDC Form 128-B.

(c) If the Captain elects to void the CDC Form 115, the hearing officer shall document the decision via a memorandum and attach a copy to the CDCR Form 1154 (Rev. 03/08), Disciplinary Action Log, which is incorporated by reference.

~~(d) The Captain shall provide his or her decision and return the CDC Form 115 and supporting documentation to the hearing officer as soon as possible, but no later than five calendar days from the date of receipt.~~

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

New Section 3317.2 is adopted to read:

3317.2. Behaviors Related to Mental Illness or Developmental Disability/Cognitive or Adaptive Functioning Deficits Excluded from Rules Violation Reports.

(a) Inmates shall not be issued a Rules Violation Report for behavior that constitutes a Rule Violation under the circumstances described in subsections (1)-(4) below.

(1) The behavior occurred in connection with a cell extraction for the administration of involuntary medication, as defined in Penal Code Section 2602, or involuntary medical treatment, as defined in Probate Code section 3200, et seq.

(2) The behavior occurred in connection with a cell extraction for transfer of the inmate to a mental health inpatient unit or between mental health inpatient units.

(3) The behavior occurred in connection with being placed in mental health restraints and/or seclusion.

(4) The behavior is determined to be an act of self-mutilation or attempted suicide.

(b) The inmate's conduct shall be documented on a CDC Form 128-B for inclusion in the inmate's central file.

(c) If the inmate commits a Serious Rules Violation pursuant to Section 3315 while participating in the behavior noted above, which constitutes a Division A-1 offense as defined in Section 3323, subsection (b), an assault or battery as defined in Section 3323, subsections (d)(1), (d)(2), and (d)(3), or an assault on

a peace officer or non-prisoner as defined in Section 3323, subsections (f)(11) and (f)(12), a CDC Form 115 shall be completed and processed in accordance in accordance with this Article.

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

Rules Violation Report:
Mental Health Assessment
 CDCR 115-MH-A (Rev. 12/15)

Form: Page 1 of 6
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A CDC 115, Rules Violation Report (RVR), has been written on the following inmate, who requires a mental health assessment.

Section I.

Inmate Name:	CDCR #:	Housing:
Specific Act:		
Could this offense result in a SHU term? <input type="checkbox"/> Yes <input type="checkbox"/> No	RVR Log #:	Date of Violation:

The inmate's mental health level of care at the time of the offense (check one):

Not in MHSDS Program ¹ CCCMS ^{1,2} EOP MHCB ICF/Acute/PIP

The inmate's current mental health level of care (check one):

Not in MHSDS Program ¹ CCCMS ^{1,2} EOP MHCB ICF/Acute/PIP

¹ Non-MHSDS and CCCMS program participants will be referred for a mental health assessment for behavior that is bizarre or unusual for any inmate, or is uncharacteristic for this inmate.

² CCCMS program participants will be referred for a mental health assessment for Division A, B, or C offenses or any offense that may result in a Security Housing Unit (SHU) term.

Developmental Disability Program Designation (check one):

NCF NDD DD1 DD2 DD3

The inmate was referred for a mental health assessment for the following reason(s) (check all that apply):

- MHSDS participant at the EOP or higher level of care (MHCB, ICF/Acute/PIP).
- DDP participant at the DD1, DD2, or DD3 level of care.
- Alleged behavior involved indecent exposure or sexual disorderly conduct.
- Alleged behavior was bizarre or unusual for any inmate.
- Alleged behavior was uncharacteristic for this inmate.
- Alleged behavior represents a Division A, B, or C offense or any offense that may result in a SHU term (CCCMS inmates only).

Date sent to mental health:	By (print name/signature):
Date received by mental health:	By (print name/signature):

Return this form by (date):

Timelines: Custody has two (2) calendar days from the date information leading to the charges is discovered by staff to submit this CDCR 115-MH-A to mental health; mental health has eight (8) calendar days to return this completed CDCR 115-MH-A to custody.

Rules Violation Report:
Mental Health Assessment
 CDCR 115-MH-A (Rev. 12/15)

Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)

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Section II.

The interview was conducted in a private location: Yes No Date: _____
If No, explain:

The inmate was informed of the purpose of the assessment and the information shared during the interview is **not** confidential and will be used in adjudicating the RVR. Yes No
If No, explain:

Data source(s) for this evaluation:
 Health Care Record Adaptive Supports form PC Consultation SOMS ERMS
 Other: _____ Staff Consultation: _____

1. CCCMS/NON-MHSDS ONLY. Are there any mental health factors that would cause the inmate to experience difficulty in understanding the disciplinary process and representing his/her interests in the hearing that would indicate the need for assignment of a staff assistant (do not rely on TABE score alone)?
 Yes No

Provide rationale:

1. <u>Disability Code:</u> <input type="checkbox"/> TABE score ≤ 4.0 <input type="checkbox"/> DPH <input type="checkbox"/> DPV <input type="checkbox"/> LD <input type="checkbox"/> DPS <input type="checkbox"/> DNH <input type="checkbox"/> DNS <input type="checkbox"/> DDP <input type="checkbox"/> Not Applicable	2. <u>Accommodations:</u> <input type="checkbox"/> Additional Time <input type="checkbox"/> Equipment <input type="checkbox"/> SLI <input type="checkbox"/> Louder <input type="checkbox"/> Slower <input type="checkbox"/> Basic <input type="checkbox"/> Transcribe <input type="checkbox"/> Other*	3. <u>Effective Communication:</u> <input type="checkbox"/> P/I asked questions <input type="checkbox"/> P/I summed information Please check one: <input type="checkbox"/> Not Reached* <input type="checkbox"/> Reached *See chrono/notes
4. <u>Comments:</u>		

CDCR #:
Last Name: _____ MI: _____
First Name: _____
DOB: _____

Rules Violation Report:
Mental Health Assessment
 CDCR 115-MH-A (Rev 12/15)

Form: Page 3 of 6
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Section II. (continued)			
2. In your opinion, was the inmate's behavior so <i>strongly influenced</i> by symptoms of a (a) <i>mental illness</i> and/or (b) <i>developmental disability/cognitive or adaptive functioning deficits</i> that the inmate would be better served by documenting this behavior in an alternate manner? If Yes: (1) provide a rationale that establishes a nexus between mental health symptoms or developmental disability/cognitive or adaptive functioning deficits and the behavior; (2) consult with the Program Supervisor; and (3) consult with the Chief of Mental Health (or designee), when applicable. If No, go to Question 3. a) Mental illness: <input type="checkbox"/> Yes <input type="checkbox"/> No Assessing clinician's rationale: 			
I agree with the assessing clinician's recommendation: <input type="checkbox"/> Yes <input type="checkbox"/> No Consulting Program Supervisor's rationale: 			
Title:	Print Name:	Date:	Signature:
Consulting Program Supervisor			
I recommend documenting this behavior in an alternate manner: <input type="checkbox"/> Yes <input type="checkbox"/> No Chief of Mental Health's (or designee) rationale: 			
Title:	Print Name:	Date:	Signature:
Chief of Mental Health (or designee)			
Final determination: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Rules Violation Report: Mental Health Assessment CDCR 115-MH-A (Rev. 12/15) Confidential Inmate Information		CDCR #: Last Name: _____ MI: First Name: DOB:	

DISTRIBUTION - Original: Case Records with Adjudicated RVR Copy: Inmate
SCANNING LOCATION - Outpatient; MHNt/TxPln - Evaluations/Reports

Rules Violation Report:
Mental Health Assessment
 CDCR 115-MH-A (Rev. 12/15)

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Section II. (continued)

b) Developmental disability/cognitive or adaptive functioning deficits:

Yes No

Assessing clinician's rationale:

I agree with the assessing clinician's recommendation: Yes No

Consulting Program Supervisor's rationale:

Title:	Print Name:	Date:	Signature:
Consulting Program Supervisor			

I recommend documenting this behavior in an alternate manner: Yes No

Chief of Mental Health's (or designee) rationale:

Title:	Print Name:	Date:	Signature:
Chief of Mental Health (or designee)			

Final determination: Yes No

Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)

Confidential Inmate Information

CDCR #:

Last Name:

MI:

First Name:

DOB:

**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)**

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Section II. (continued)

3. In your opinion, is there evidence to suggest that (a) *mental illness* and/or (b) *developmental disability/cognitive or adaptive functioning deficits* contributed to the behavior that led to the RVR? If Yes, establish a nexus between mental health symptoms or developmental disability/cognitive or adaptive functioning deficits and the behavior.

a) Mental illness:

Yes No

Provide rationale:

b) Developmental disability/cognitive or adaptive functioning deficits:

Yes No

Provide rationale:

4. If the inmate is found guilty of the offense, what mental health factors and/or developmental disability/cognitive or adaptive functioning deficits should the hearing officer or senior hearing officer consider when assessing the penalty, such as penalties that may have an adverse impact on the inmate's stability?

Examples of penalties include, but are not limited to, changes and reduction in, phone calls, visits (when permissible), day room, confined to quarters, loss of packages; loss of yard time, loss of appliances, etc.

Provide your recommendation and rationale:

**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev 12/15)**

Confidential Inmate Information

CDCR #:

Last Name:

MI:

First Name:

DOB:

**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)**

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Section II. (continued)

5. SHU OFFENSE ONLY (see box on pg. 1 to determine if applicable). If the inmate is found guilty of the offense, are there any mental health factors and/or developmental disability/cognitive or adaptive functioning deficits that Institutional Classification Committee should consider when assessing a SHU term?

Provide your recommendation and rationale:

6. DDP PARTICIPANTS ONLY. Does the inmate exhibit on-going behavior leading to disciplinary infractions that appears related to developmental disability/cognitive or adaptive functioning deficits? If Yes, refer inmate to the DDP Clinician for assistance in assessing the causes of the behavior and creating an intensive behavior modification plan.

Yes No If Yes, complete a CDCR Form 128 MH-5, Mental Health Referral Chrono.

Did you consult with the DDP Clinician? Yes No Document consultation on a Developmental Disabilities Progress Note.

Provide rationale:

Title:	Phone Ext.:	Print Name:	Date:	Signature:
Clinician				
Received by (Custody staff)				

**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)**

Confidential Inmate Information

CDCR #:

Last Name:

MI:

First Name:

DOB:

**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)**

Instructions: Page 7

INSTRUCTIONS

Purpose of CDCR 115-MH-A (Rev. 12/15) Rules Violation Report: Mental Health Assessment: Use this form to assess an inmate whose alleged behavior resulted in a CDC 115, Rules Violation Report (RVR) to determine: 1) if the inmate needs a staff assistant; 2) if symptoms of (a) mental illness and/or (b) developmental disability/cognitive or adaptive functioning deficits strongly influenced the behavior that led to the RVR; 3) if (a) mental illness and/or (b) developmental disability/cognitive or adaptive functioning deficits contributed to the behavior that led to the RVR; 4) what mental health factors and/or developmental disability/cognitive or adaptive functioning deficits should be considered when assessing the penalty; 5) for offenses that could result in a Security Housing Unit (SHU) term only, are there any mental health factors and/or developmental disability/cognitive or adaptive support deficits the Institutional Classification Committee (ICC) should consider when assessing a SHU term; and 6) for Developmental Disability Program (DDP) participants only, determine if the inmate exhibits on-going behavior leading to disciplinary infractions related to developmental disability/cognitive or adaptive functioning deficits that would be minimized by creating an intensive behavior modification plan. Complete this form for:

Inmates who are placed at the following levels of mental health care:

- Enhanced Outpatient Program (EOP)
- Mental Health Crisis Bed (MHCB) and
- Acute Psychiatric or Intermediate level of care
- DDP participants at the DD1, DD2, or DD3 level of care

These inmates shall always:

- Be assigned a staff assistant
- Receive a RVR Mental Health Assessment.

In addition, the RVR Mental Health Assessment shall be completed for:

- Correctional Clinical Case Management System (CCCMS) participants who:
 1. Committed a Division A, B or C offense.
 2. Committed an offense that may result in the assessment of a Security Housing Unit (SHU) term.
 3. Exhibited behavior at the time of the issuance of the RVR that is bizarre or unusual for any inmate, or is uncharacteristic for this inmate.
- Inmates not included in the Mental Health Services Delivery System (MHSDS) who exhibited behavior at the time of the issuance of the RVR that is bizarre or unusual for any inmate, or is uncharacteristic for this inmate.
- Inmates not included in the MHSDS who engaged in Indecent Exposure or Sexual Disorderly Conduct.

**Rules Violation Report:
Mental Health Assessment**
CDCR 115-MH-A (Rev. 12/15)

Instructions: Page 8

Reviewing Custody Supervisor

A CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment is initiated for any inmate in the groups listed above and whose misconduct has been documented on a RVR.

The Reviewing Custody Supervisor will complete Section I of the CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment. If the inmate meets criteria for a mental health assessment, the Reviewing Custody Supervisor shall forward the request, and a copy of the RVR as well as all supplements to the RVR, to mental health staff as soon as possible but no later than two (2) calendar days from the date information leading to the charges is discovered by staff.

Mental Health Clinician

Section I

The mental health clinician must review the CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment, Section I, completed by Custody. This information includes the inmate's name, CDCR #, housing, specific act charged, if the offense could result in a SHU term, the RVR log #, date of the violation, mental health level of care, DDP designation, reason(s) for the assessment request, date the form was sent to mental health and by whom, date the form was received by mental health and by whom, and the return date for the form. The mental health clinician will return the completed CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment to the Reviewing Custody Supervisor as soon as possible but no later than eight (8) calendar days.

Section II

Interview the inmate who is the subject of the RVR in a private setting. Indicate if the interview was conducted in a private location by checking the appropriate box and type in the date the interview occurred. If the interview was not conducted in a private setting or the inmate refused the interview, explain why.

Explain to the inmate the purpose of the interview and inform him or her that the interview is non-confidential and information obtained during the interview may be used in adjudicating the RVR. Check the appropriate box indicating disclosure of the non-confidential nature of interview was explained. If "No", explain why not.

Data sources: Review the relevant portions of the health care record and any other records (Adaptive Supports form formally known as the CDC 128 C-2, Recommendation for Adaptive Support, ERMS, SOMS, staff consultation, and/or archived files) deemed appropriate and check the corresponding boxes on the form. Relevant staff may be interviewed as appropriate and necessary.

**Rules Violation Report:
Mental Health Assessment**
CDCR 115-MH-A (Rev. 12/15)

Effective Communication: The Effective Communication section must be completed any time there is a clinically relevant encounter in which meaningful information is exchanged between the licensed clinician and the inmate. For further information and examples of some encounters in which effective communication is required, see IMSP&P, Volume 2, Ch. 4.

<p>1. Disability: a. Check all boxes that apply regarding the inmate's disability. Disability Codes: TABE score ≤ 4.0 DPH - Permanent Hearing Impaired DPV - Permanent Vision Impaired LD - Learning Disability DPS - Permanent Speech Impaired DNH - Permanent Hearing Impaired; improved with hearing aids. DNS - Permanent Speech Impaired; can communicate in writing. DDP - Developmental Disability Program N/A - Not applicable</p>	<p>2. Accommodation: a. Check all boxes that apply to the special accommodations made to facilitate effective communication: Additional time - P/I (inmate) was given additional time to respond or complete a task. Equipment - Special equipment was used to facilitate effective communication. Note the type of equipment used in the comments section. SLI - Sign Language Interpreter. Louder - The provider spoke louder. Slower - The provider spoke slower. Basic - The provider used basic language. Transcribe - Communication was written down. Other - Any other tool that was used to facilitate effective communication.</p>	<p>3. Effective Communication: a. Check all boxes that apply that summarize how it was verified that effective communication was reached. P/I asked questions - The inmate asked questions regarding the interaction. P/I summed information - The inmate summarized information regarding the interaction. b. Check one box to indicate if effective communication was or was not reached. ONE of these boxes must be checked.</p>
<p>4. Comments: Provide any additional information regarding effective communication.</p>		

DO NOT USE JARGON OR DIAGNOSTIC TERMS. USE LAY TERMS THAT CAN BE EASILY UNDERSTOOD BY NON-MENTAL HEALTH STAFF.

Section II continued:

Question 1

1. Only answer question 1 if the inmate is either **not** a participant in the MHSDS or is in the CCCMS level of care. Are there any mental health factors that would cause the inmate to experience difficulty in understanding the disciplinary process and representing his/her interests in the hearing that would indicate the need for assignment of a staff assistant? (Do not rely on TABE Score alone) Check the box Yes or No.

Determine the need for a staff assistant (EOP, DDP, MHCB or Acute Psychiatric or Intermediate level of care inmates are automatically assigned a staff assistant). Indicate your response by checking the appropriate Yes or No box and provide rationale for why a staff assistant is or is not needed.

Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)

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Question 2

2. In your opinion, was the inmate's behavior so *strongly influenced* by symptoms of a (a) mental illness and/or (b) developmental disability/cognitive or adaptive functioning deficits that the inmate would be better served by documenting this behavior in an alternate manner? If Yes: (1) provide a rationale that establishes a nexus between mental health symptoms and/or developmental disability/cognitive or adaptive functioning deficits and the behavior; (2) consult with the Program Supervisor; and (3) consult with the Chief of Mental Health (or designee), when applicable. If No, go to Question 3.

If Yes:

- Check the "Yes" box(es) under the appropriate section (a) mental illness and/or (b) developmental disability/cognitive or adaptive functioning deficits and document your rationale in language easily understood by non-mental health staff in the first space below.
- The rationale will include a clear nexus between the mental health symptoms and/or developmental disability/cognitive or adaptive functioning deficits and the behavior.
- Complete the remainder of the assessment, through Question 6.
- Once completed, forward the CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment, to the Consulting Program Supervisor over the mental health unit the inmate was in at the time the alleged behavior occurred. The supervisor reviews the rationale provided and indicates agreement or disagreement with the assessing clinician's response by checking the appropriate box. (If the Program Supervisor over the mental health unit the inmate was in at the time the alleged behavior occurred is not available, consult with the Program Supervisor where the inmate is currently housed.)
- The supervisor shall provide his/her rationale in the space above the signature block.
- The supervisor prints name, signs and dates the form.
- If the supervisor and clinician are in agreement, the completed CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment is forwarded to custody.
- If the supervisor and clinician are not in agreement, the supervisor forwards the CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment to the Chief of Mental Health (CMH), or designee, for final determination.
- The CMH reviews the rationale provided by the assessing clinician and supervisor and indicates agreement or disagreement with the assessing clinician's response by checking the appropriate box.
- The CMH provides his/her rationale in the space above signature block and checks the Final Determination box Yes or No.
- The CMH prints name, signs and dates the form.
- The CMH forwards the completed CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment to custody within the eight (8) calendar day timeframe.

**Rules Violation Report:
Mental Health Assessment**
CDCR 115-MH-A (Rev. 12/15)

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If No:

- If mental health symptoms and/or developmental disability/cognitive or adaptive functioning deficits did not strongly influence the behavior, mark "No" in the appropriate places and go directly to Question 3. No consultation with the Program Supervisor is necessary.

Question 3

3. In your opinion, is there evidence to suggest that (a) mental illness and/or (b) developmental disability/cognitive or adaptive functioning deficits *contributed* to the behavior that led to the RVR? If "Yes", establish a nexus between mental health symptoms or developmental disability/cognitive or adaptive functioning deficits and the behavior.

Determine if mental illness and/or developmental disability/cognitive or adaptive functioning deficits contributed to the behavior that led to the RVR and check the appropriate box "Yes" or "No" under either (a) mental illness and/or (b) developmental disability/cognitive or adaptive functioning deficits. Provide rationale for your decision. If the answer is "Yes", establish a nexus between mental health symptoms or developmental disability/cognitive or adaptive functioning deficits and the behavior. If the answer to Question 3 is "No", you still need to provide a rationale. If you indicated "Yes" to Question 2, also check "Yes" on Question 3 and provide the same or similar rationale as you did on Question 2.

Question 4

4. If the inmate is found guilty of the offense, what mental health factors and/or developmental disability/cognitive or adaptive functioning deficits should the hearing officer or senior hearing officer consider when assessing the penalty, such as penalties that may have an adverse impact on the inmate's stability? Provide your recommendation and rationale.

Examples of penalties include, but are not limited to, changes and reduction in:

- Phone calls
- Day room
- Confined to quarters
- Loss of packages
- Yard time
- Loss of appliances
- Visits (when permissible)

(Example of mandated sanctions: Violations of California Code of Regulations, Title 15, Sections 3323(c)(6), 3323(d)(8) and 3323(f)(6) shall result in loss of visits.)

Consideration of penalties can occur even if the inmate's mental health and/or developmental disability/cognitive or adaptive functioning deficits were not thought to be related to the commission of the offense. Consider what protective factors (for general decompensation, as well as self-harm) are present for this inmate and if possible what penalties would impact these protective factors. Examine what factors have contributed to decompensation in the past. Document any anticipated impact loss of privileges may have on the inmate's mental health. If loss of privileges is not thought to impact mental health, provide a brief justification.

**Rules Violation Report:
Mental Health Assessment**
CDCR 115-MH-A (Rev. 12/15)

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Question 5

5. SHU OFFENSE ONLY (see box on pg. 1 to determine if applicable). If the inmate is found guilty of the offense, are there any mental health factors and/or developmental disability/cognitive or adaptive functioning deficits that Institutional Classification Committee should consider when assessing a SHU term?

Provide your recommendation and rationale.

Determine if the offense could result in a SHU term (the box at the top of the CDCR 115-MH-A, Rules Violation Report: Mental Health Assessment completed by custody staff contains this information). Address this question only if the "Yes" box is checked above. Mental health factors and/or developmental disability/cognitive or adaptive functioning deficits may have significant implications for the inmate's functioning while serving a SHU term. These factors must be considered. As noted in Question 4, consider protective factors and other factors that have contributed to decompensation in the past. Document any anticipated impact a SHU term may have on mental health and/or developmental disability/cognitive or adaptive functioning deficits and any recommended strategies to mitigate the anticipated impact. If a SHU term is not thought to impact mental health or developmental disability/cognitive or adaptive functioning deficits, provide a brief justification.

Question 6

6. DDP PARTICIPANTS ONLY. Does the inmate exhibit on-going behavior leading to disciplinary infractions that appears related to developmental disability/cognitive or adaptive functioning deficits? If "Yes", refer the inmate to the DDP Clinician for assistance in assessing the causes of the behavior and creating an intensive behavior modification plan. Check Yes or No and refer as needed on a CDCR 128 MH-5, Mental Health Referral Chrono.

Did you consult with the DDP Clinician? Check "Yes" or "No" and document consultation as needed on a Developmental Disabilities Progress Note.

Provide rationale.

Anytime the inmate is a participant in the DDP, the DDP Clinician will be consulted and that consultation will be documented on a corresponding Developmental Disabilities Progress Note (Progress Notes formally known as the CDCR MH-7230-L, Interdisciplinary Progress Note - Developmental Disability). Check "Yes" in the appropriate box. If for some reason consultation with the DDP Clinician cannot be obtained, check the "No" box and provide an explanation as to why the consultation did not occur in the space below.

Sign, date and return form to the requesting custody supervisor within eight (8) calendar days. The custody supervisor receiving the completed form shall forward to the classifying official after signing and dating the bottom of the form.

Mental Health Referral Chrono
CDCR 128-MH5 (Rev. 05/14)

Inmate-Patient Name: _____ CDCR Number: _____ Housing: _____ Institution: _____

- Routine (Within 5 working days)
- Urgent (Within 24 hours)
- Emergency (Contact Mental Health Services immediately)

Non English-speaking language: _____

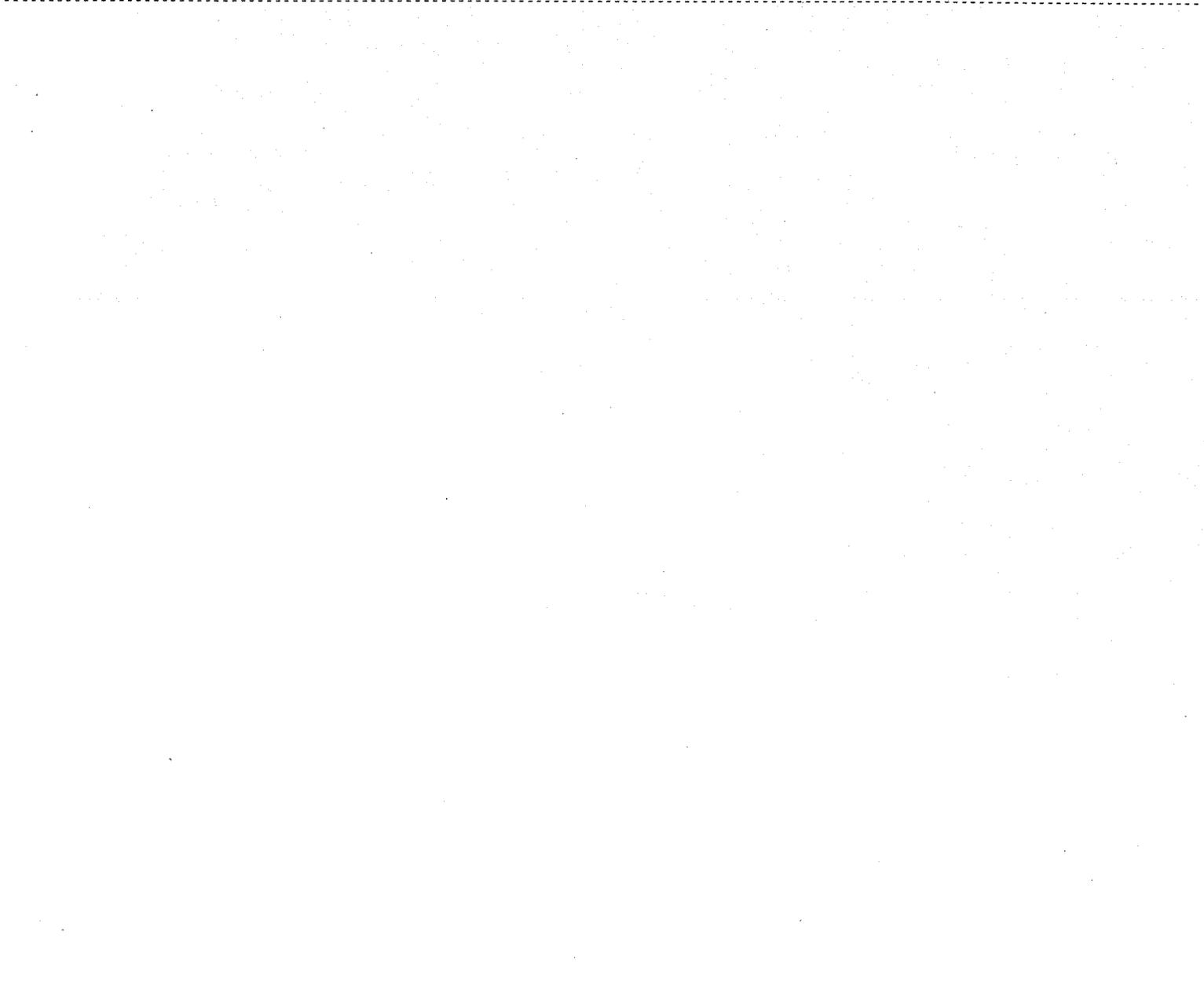
REASON FOR REFERRAL: (Check the **primary reason(s)** and give an example or describe below under "Other.")

- | | |
|--|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> History of psychiatric care need re-assessment <input type="checkbox"/> Expresses suicidal ideation or recent attempts (Emergency) <input type="checkbox"/> Incapable of caring for self / poor grooming <input type="checkbox"/> Confused / disoriented / withdrawn <input type="checkbox"/> Hostile / assaultive / poor self-control <input type="checkbox"/> Taken advantage of by other inmates <input type="checkbox"/> Poor attention span / difficulty following directions <input type="checkbox"/> Other/Additional (Describe): _____ | <ul style="list-style-type: none"> <input type="checkbox"/> Needs psychotropic medication review <input type="checkbox"/> Exhibits bizarre behavior (Describe below) <input type="checkbox"/> Poor appetite / sad / fearful / nervous <input type="checkbox"/> Unpredictable / bothers others <input type="checkbox"/> Hears things / sees things / imagines things <input type="checkbox"/> Insomnia / sleeps too much <input type="checkbox"/> DDP Consult / re-evaluation |
|--|---|

REFERRED BY (Print Name)	TITLE	PHONE / EXTENSION	TIME	DATE
Received in Mental Health Services by: _____	Time: _____	Date: _____	Assigned to: _____	_____
Print Name				Print Name

For clinician only -- this was a referral for MHSDS DDP Inmate-Patient seen: Time: _____ Date: _____

Once complete, submit to mental health services.
Distribution: Scan into the eUHR, copy in C-file, copy to inmate.



Mental Health Referral Chrono
CDCR 128-MH5 (Rev. 05/14)**Instructions**

Purpose of Chrono: This chrono is to be used by any custody, clinical, or nursing staff to refer and inmate-patient for a Mental Health Evaluation. Blank chronos should be available in all clinics and housing units. Once Complete, submit to mental health services.

1. Complete the identifying information at the top of the chrono. If applicable, enter the inmate-patient's Non-English language.
2. Check box for level of urgency: Routine – see within five working days; Urgent – see within one working day; Emergency – see immediately. Danger to self and/or others.

Contact Mental Health Services immediately for and emergency evaluation if

- 1) **the inmate-patient is currently a danger to self or**
- 2) **the inmate-patient is a danger to others and you suspect a mental illness is involved. In all cases, immediately initiate safety precaution.**
3. Describe the observed behavior or problem.
4. Print name, title, and phone extension of the staff member making referral.
5. Enter time and date referral was made; **indicate the date and time contact was made with the Mental Health Services as well as the name of the staff person contacted.**
6. Mental Health Services shall enter the referral into the tracking system indicating time and date referral was made.
7. The clinician should indicate whether the referral was for MHSDS and/or DDP, and the time and the date the inmate-patient was seen.
8. A copy shall be filed in the Mental Health section of the electronic Unit Health Record, a copy filed in the central file, and a copy is provided to the inmate. Copies distributed according to local operating procedure.

DISCIPLINARY ACTION LOG

LOG NUMBER:	CCR SECTION #:	DIV:	CLASSIFIED BY:	MHSDS CCMS MHCB	INVESTIGATIVE EMPLOYEE: Y / N	HEARING OFFICER/SENIOR HEARING OFFICER:	OFFENDER ETHNICITY: <input type="checkbox"/> W <input type="checkbox"/> B <input type="checkbox"/> H <input type="checkbox"/> O	HEARING DATE:
INMATE'S NAME:	SPECIFIC ACT:		CDCR 804 TO RECORDS:	EOP DMH	STAFF ASSISTANT: Y / N	FINDING/DISPOSITION:	VIOLENCE RELATED TO: <input type="checkbox"/> RACE <input type="checkbox"/> GANG / DISRUPTIVE GROUP	CAPTAIN REVIEW DATE:
CDC NUMBER:			INITIAL COPY TO INMATE:		DATE MH REVIEW REQUESTED:		VIOLENCE OCCURRED: <input type="checkbox"/> IN-CELL <input type="checkbox"/> DORM <input type="checkbox"/> YARD <input type="checkbox"/> OTHER	CCO REVIEW DATE:
CDCR 115 DATE:	REPORTING EMPLOYEE:		FORCE USED: <input type="checkbox"/> OC <input type="checkbox"/> PHY <input type="checkbox"/> MEB <input type="checkbox"/> OTH:	1 2 3 DPP V H S	D.A. REFERRAL: Y / N		REFUSAL TO HOUSE: <input type="checkbox"/> RACE <input type="checkbox"/> GANG <input type="checkbox"/> OTHER	INMATE FINAL COPY DATE:
INCIDENT REPORT #:	LOCATION:	WARD	DATE LAB RESULTS RECEIVED:	T.A.B.E.	D.A. ACCEPTED / REJECTED: DATE:	IN CELL ASSAULT REVIEW REQUIRED: Y / N	DISRUPTIVE GROUP/GANG AFFILIATION:	RECORDS/REGISTER:
LOG NUMBER:	CCR SECTION #:	DIV:	CLASSIFIED BY:	MHSDS CCMS MHCB	INVESTIGATIVE EMPLOYEE: Y / N	HEARING OFFICER/SENIOR HEARING OFFICER:	OFFENDER ETHNICITY: <input type="checkbox"/> W <input type="checkbox"/> B <input type="checkbox"/> H <input type="checkbox"/> O	HEARING DATE:
INMATE'S NAME:	SPECIFIC ACT:		CDCR 804 TO RECORDS:	EOP DMH	STAFF ASSISTANT: Y / N	FINDING/DISPOSITION:	VIOLENCE RELATED TO: <input type="checkbox"/> RACE <input type="checkbox"/> GANG / DISRUPTIVE GROUP	CAPTAIN REVIEW DATE:
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CDCR 115 DATE:	REPORTING EMPLOYEE:		FORCE USED: <input type="checkbox"/> OC <input type="checkbox"/> PHY <input type="checkbox"/> MEB <input type="checkbox"/> OTH:	1 2 3 DPP V H S	D.A. REFERRAL: Y / N		REFUSAL TO HOUSE: <input type="checkbox"/> RACE <input type="checkbox"/> GANG <input type="checkbox"/> OTHER	INMATE FINAL COPY DATE:
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LOG NUMBER:	CCR SECTION #:	DIV:	CLASSIFIED BY:	MHSDS CCMS MHCB	INVESTIGATIVE EMPLOYEE: Y / N	HEARING OFFICER/SENIOR HEARING OFFICER:	OFFENDER ETHNICITY: <input type="checkbox"/> W <input type="checkbox"/> B <input type="checkbox"/> H <input type="checkbox"/> O	HEARING DATE:
INMATE'S NAME:	SPECIFIC ACT:		CDCR 804 TO RECORDS:	EOP DMH	STAFF ASSISTANT: Y / N	FINDING/DISPOSITION:	VIOLENCE RELATED TO: <input type="checkbox"/> RACE <input type="checkbox"/> GANG / DISRUPTIVE GROUP	CAPTAIN REVIEW DATE:
CDC NUMBER:			INITIAL COPY TO INMATE:		DATE MH REVIEW REQUESTED:		VIOLENCE OCCURRED: <input type="checkbox"/> IN-CELL <input type="checkbox"/> DORM <input type="checkbox"/> YARD <input type="checkbox"/> OTHER	CCO REVIEW DATE:
CDCR 115 DATE:	REPORTING EMPLOYEE:		FORCE USED: <input type="checkbox"/> OC <input type="checkbox"/> PHY <input type="checkbox"/> MEB <input type="checkbox"/> OTH:	1 2 3 DPP V H S	D.A. REFERRAL: Y / N		REFUSAL TO HOUSE: <input type="checkbox"/> RACE <input type="checkbox"/> GANG <input type="checkbox"/> OTHER	INMATE FINAL COPY DATE:
INCIDENT REPORT #:	LOCATION:	WARD	DATE LAB RESULTS RECEIVED:	T.A.B.E.	D.A. ACCEPTED / REJECTED: DATE:	IN CELL ASSAULT REVIEW REQUIRED: Y / N	DISRUPTIVE GROUP/GANG AFFILIATION:	RECORDS/REGISTER:
LOG NUMBER:	CCR SECTION #:	DIV:	CLASSIFIED BY:	MHSDS CCMS MHCB	INVESTIGATIVE EMPLOYEE: Y / N	HEARING OFFICER/SENIOR HEARING OFFICER:	OFFENDER ETHNICITY: <input type="checkbox"/> W <input type="checkbox"/> B <input type="checkbox"/> H <input type="checkbox"/> O	HEARING DATE:
INMATE'S NAME:	SPECIFIC ACT:		CDCR 804 TO RECORDS:	EOP DMH	STAFF ASSISTANT: Y / N	FINDING/DISPOSITION:	VIOLENCE RELATED TO: <input type="checkbox"/> RACE <input type="checkbox"/> GANG / DISRUPTIVE GROUP	CAPTAIN REVIEW DATE:
CDC NUMBER:			INITIAL COPY TO INMATE:		DATE MH REVIEW REQUESTED:		VIOLENCE OCCURRED: <input type="checkbox"/> IN-CELL <input type="checkbox"/> DORM <input type="checkbox"/> YARD <input type="checkbox"/> OTHER	CCO REVIEW DATE:
CDCR 115 DATE:	REPORTING EMPLOYEE:		FORCE USED: <input type="checkbox"/> OC <input type="checkbox"/> PHY <input type="checkbox"/> MEB <input type="checkbox"/> OTH:	1 2 3 DPP V H S	D.A. REFERRAL: Y / N		REFUSAL TO HOUSE: <input type="checkbox"/> RACE <input type="checkbox"/> GANG <input type="checkbox"/> OTHER	INMATE FINAL COPY DATE:
INCIDENT REPORT #:	LOCATION:	WARD	DATE LAB RESULTS RECEIVED:	T.A.B.E.	D.A. ACCEPTED / REJECTED: DATE:	IN CELL ASSAULT REVIEW REQUIRED: Y / N	DISRUPTIVE GROUP/GANG AFFILIATION:	RECORDS/REGISTER:

INSTITUTION:	MONTH/YEAR:	REVIEWED BY:	DATE REVIEWED:
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W. E. C. E.

RULES VIOLATION REPORT: MENTAL HEALTH ASSESSMENT REQUEST

REVIEWING CUSTODY SUPERVISOR

A CDC 115, Rules Violation Report (RVR), has been written on the following inmate, who requires a mental health assessment.

Inmate Name: _____ CDC Number: _____

RVR Log Number: _____ Date of Violation: _____ Housing: _____

Specific Act Charged: _____

The inmate's current Mental Health Level of Care is: (check one)

- NOT IN MHSDS PROGRAM* CCCMS* EOP MHCB DMH

***CCCMS AND NON-MHSDS PROGRAM PARTICIPANTS WILL BE REFERRED FOR A MENTAL HEALTH ASSESSMENT FOR BEHAVIOR THAT IS BIZARRE OR UNUSUAL FOR ANY INMATE, OR THAT IS UNCHARACTERISTIC FOR THIS INMATE.**

Sent to Mental Health: _____ Date _____ By: _____ Print Name _____ Signature _____

Return this form to: _____ Print Name _____ *By: _____ Date _____

(CCCMS and non-MHSDS, 5 working days; EOP/MHCB/DMH, 15 calendar days)

MENTAL HEALTH CLINICIAN

Conducted non-confidential interview: _____ Date _____ (Inmate informed of non-confidentiality).

1. CCCMS/NON-MHSDS only. Are there any mental health factors that would cause the inmate to experience difficulty in understanding the disciplinary process and representing his/her interests in the hearing that would indicate the need for the assignment of a Staff Assistant? Yes No

Explain "yes" response: _____

2. In your opinion, did the inmate's mental disorder appear to contribute to the behavior that led to the RVR? Yes No Explain "yes" response: _____

3. If the inmate is found guilty of the offense, are there any mental health factors that the hearing officer should consider in assessing the penalty? Yes No Explain "yes" response: _____

INSTITUTION:	CLINICIAN NAME (Print)	SIGNATURE	DATE
RECEIVED BY:	CUSTODY STAFF NAME (Print)	SIGNATURE	DATE

DISTRIBUTION:
Original : Central File With Adjudicated RVR
Blue : 115 Unit Health Record
Pink : Inmate

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

RULES VIOLATION REPORT: MENTAL HEALTH ASSESSMENT REQUEST

Delete

INSTRUCTIONS

Use this form to assess an inmate/patient whose behavior resulted in a CDC 115, Rules Violation Report (RVR) to determine: 1) if the inmate needs a staff assistant, 2) if a mental disorder contributed and/or influenced the behavior, and 3) if there are factors that should be considered in assessing the penalty.

Enhanced Outpatient Program (EOP) inmate/patient, Mental Health Crisis Bed (MHCB) inmate/patient and the Department of Mental Health (DMH) inmate/patient will always be assigned a staff assistant. Inmate/patients in the Correctional Clinical Case Management System (CCCMS), or those not included in the Mental Health Services Delivery System (MHSDS) who exhibit behavior that is bizarre or unusual for any inmate, or uncharacteristic for this inmate, shall receive a RVR mental health assessment.

Reviewing Custody Supervisor Responsibilities

A CDCR 115-MH, Mental Health Assessment Request, will be initiated for any inmate/patient in the below listed groups whose misconduct has been documented on an RVR. Attach a copy of the RVR to this request and forward to Mental Health Services.

- Inmate/patient not in the Mental Health Services Delivery System (MHSDS) who exhibits "bizarre, unusual, or uncharacteristic" behavior.
- Correctional Clinical Case Management System (CCCMS) inmate/patient who exhibits "bizarre, unusual, or uncharacteristic" behavior.
- All Enhanced Outpatient Program (EOP) inmates/patients.
- All Mental Health Crisis Bed (MHCB) inmates/patients.
- All Department of Mental Health (DMH) inmates/patients.

The reviewing supervisor will complete all areas of the top portion of the form, under the area designated for the Reviewing Custody Supervisor, prior to forwarding to mental health. The Reviewing Custody Supervisor should contact mental health to ascertain the inmate/patient's level of care. If inmate/patient meets criteria for a mental health assessment, the Reviewing Custody Supervisor shall forward the request, a copy of the RVR and all supplements to the RVR, to mental health staff as soon as possible.

Mental Health Clinician Responsibilities

The mental health clinician evaluating the inmate/patient shall review the relevant portions of the Unit Health Record (UHR) and any other records deemed appropriate. The clinician will also interview the inmate/patient, who is the subject of the RVR, inform him/her that the interview is non-confidential and that information obtained may be used in adjudicating the RVR.

- Determine if there is a need for a staff assistant. (EOP, MHCB, DMH will automatically be assigned a staff assistant). Evaluate inmate/patient referred from CCCMS and non-MHSDS to determine if he/she has symptoms of a mental disorder that would impair his/her ability to understand the proceedings and to act in his/her own interests in the hearing process.
- Make a determination whether the inmate/patient's mental disorder appeared to contribute to the behavior that led to the RVR and mark the appropriate box. If "yes", explain using "lay terms". If additional space is required for the explanation, please attach an additional sheet of paper.
- Make a determination whether there are any mental health factors that should be considered in mitigating the penalty should the inmate be found guilty. If "yes", explain using "lay terms". If additional space is required for the explanation, please attach an additional sheet of paper.
- Sign, date, and return form to the requesting custody supervisor within five (5) working days for CCCMS and non-MHSDS and within fifteen (15) calendar days for EOP, MHCB and DMH.

Custody supervisor receiving the completed form shall forward to the classifying official after signing and dating the form at bottom.

FINAL STATEMENT OF REASONS:

The Initial Statement of Reasons (ISOR) is incorporated by reference.

The California Department of Corrections and Rehabilitation (CDCR or the Department) proposes to amend Sections 3310 and 3317, and adopt Sections 3317.1 and 3317.2 of the California Code of Regulations (CCR), concerning Inmate Discipline.

UPDATES TO THE INITIAL STATEMENT OF REASONS

The Notice of Emergency Regulations was published on December 25, 2015, which began the public comment period. Notice of Change to Regulations (NCR) 15-11 was posted on the CDCR intranet and internet websites on the same day, and mailed to persons who have requested notification of changes to Department regulations on December 30, 2015.

The public hearing was held on February 16, 2016, the final day of the public comment period. No one commented at the public hearing. During the 45-day comment period, one written comment was received. This comment is discussed below under the heading, *“Summaries and Responses to Written Public Comments.”*

The proposed regulations were approved for temporary emergency adoption by the Office of Administrative Law (OAL) on November 17, 2015. As a result of their review of the regulations, OAL made several recommendations for edits to the regulatory text for additional clarity of the regulations. The Department made these recommended changes to the regulatory text prior to distributing NCR 15-11.

Edits to the regulatory text were made in regards to structure and organization only for additional clarity of the regulations, and do not have any substantive impact to the regulations concerning the intent or meaning of the regulations originally adopted as an emergency. Duplicative language was removed and regulatory language was restructured and reorganized to combine with other regulatory language where appropriate to provide a more systematic and precise procedure concerning the amendments to the inmate discipline regulations as they relate to inmates suffering from a mental illness and/or developmental disability/cognitive or adaptive functioning deficits.

DETERMINATION

The Department has determined that no alternative considered would be more effective in carrying out the purpose for which this regulation is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law, than the action proposed.

The Department has determined that this action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the CDCR’s initial determination.

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 of the Government Code.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on private persons or small businesses than the action planned.

DOCUMENTS RELIED UPON

A listing and explanation of documents relied upon in the development of the proposed regulations may be found on page 3 of the Initial Statement of Reasons, which is incorporated by reference into this document. The documents themselves are available in the Rulemaking File.

FORMS INCORPORATED BY REFERENCE

Three forms are incorporated by reference into the regulations. These forms have been made available to the public throughout the rulemaking process, and will continue to be made available upon request.

- CDCR Form 115-MH-A (Rev. 12/15), Rules Violation Report: Mental Health Assessment
- CDCR 128-MH5 (Rev. 05/14), Mental Health Referral Chrono
- CDCR 1154 (Rev. 03/08), Disciplinary Action Log

The Department uses over 1,500 regulatory forms, including the above-referenced forms, and because of this high volume, it would be unduly cumbersome, expensive, and impractical to print all the forms in the Title 15. Therefore, Department forms are incorporated by reference into the Title 15 within their relevant section, when appropriate.

Non-substantive formatting changes and typographical errors and/or omissions are corrected throughout the document to ensure clarity.

PUBLIC HEARING COMMENTS

Public Hearing: Held February 16, 2016, at 10:00 a.m.

No comments were received at the hearing.

SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS:

Comment 1A: Commenter states terms “lower threshold,” “relevant information,” “contributing factors,” and “mitigating of penalties” are unconstitutionally vague and ambiguous and can be misunderstood and misapplied by CDCR personnel.

Response 1A: The terms “lower threshold” and “contributing factors,” are used in the ISOR document for explanatory purposes for mental health clinicians filling out the form (the intended audience) in regards to the varying degrees of mental illness and/or developmental disability or cognitive adaptive functioning deficits. The terms help clinical staff distinguish between behavior that was strongly influenced by mental illness and/or developmental disability/cognitive or adaptive functioning deficits, and circumstances wherein the symptoms of mental illness and/or developmental disability/cognitive or adaptive functioning deficits contributed to the behavior that resulted in a Rules Violation Report (RVR).

CDCR Form 115-MH-A (Rev. 12/15), Rules Violation Report: Mental Health Assessment, provides a means for mental health clinicians to offer clinical input “relevant information” to custody staff in

regards to what impact an inmate's mental illness and/or developmental disability/cognitive or adaptive functioning deficits may have had at the time of the offense. Custody staff is then able to mitigate or reduce penalties based upon clinical input.

When mental health staff identifies symptoms or other evidence of mental illness and/or developmental disability/cognitive or adaptive functioning deficits that may have contributed to the inmate's behavior that resulted in a RVR, custody staff uses this clinical input to reduce disciplinary sanctions or the "mitigating of penalties" when appropriate. This may result in documenting the behavior an alternate manner for behavior that was strongly influenced by mental illness and/or developmental disability/cognitive or adaptive functioning deficits.

Comment 1B: Commenter states he is entitled to comprehensive, fact-based treatment so that he can address both his addiction to alcohol and mental health issues.

Response 1B: This is the focus of the amendments to section 3317 and the adoption of new sections 3317.1 and 3317.2. New language allows for a comprehensive assessment to determine whether mental illness and/or developmental disability/cognitive or adaptive functioning deficits lead to the behavior that resulted in disciplinary action.

The mental health assessment form has been amended at the direction of Coleman Special Master. Mental health care staff evaluates the inmate's mental illness and/or developmental disability/cognitive or adaptive functioning deficits and determines whether a nexus exists between symptoms displayed at the time of the offense and the behavior resulting in disciplinary action. Based on the severity and role of symptoms identified by clinical staff, Captains have the authority to void the RVRs. This eliminates adverse action being taken against the inmate and allows clinical staff to create a personalized treatment plan for the inmate that helps correct behavioral issues.