

**DEPARTMENT OF CORRECTIONS AND REHABILITATION**  
**DIVISION OF JUVENILE JUSTICE**  
**Title 15, California Code of Regulations**  
**Division 4, Chapter 4, Article 5 Parole Violation, Detention, and Revocation**  
**Division 4.5, Chapter 1: Article 1 Rules of Construction and Definitions; Article 6 General**  
**Rules on Hearings; and Article 7 Appeals; Chapter 2: Article 4 Special Hearings and**  
**Actions in Institutions; and Chapter 3: Article 2 Parole Violation**

**ADENDUM TO INITIAL STATEMENT OF REASONS**

The California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) proposes to: amend Sections 4845, 4846, 4847, 4848, 4848.5, 4849, 4850, 4851, 4852, 4853, 4900, 4926, 4927, 4929, 4935, 4936, 4937, 4938, 4939, 4940, 4977, 4978, 4979, 4980, 4981, 4982, 4983; repeal Sections 4925 and 4928; and adopt Sections 4854, 4937.5, 4939.5, 4961.1, 4977.5, 4977.6, 4977.7, 4980.5, and 4983.5 of the California Code of Regulations (CCR), Title 15, Division 4 and 4.5 respectively, in accordance with the L.H. Stipulated Order for Permanent Injunctive Relief.

In October 2008, the United States District Court, for the Eastern District of California in L.H. vs. Schwarzenegger, Case No. 2:06-CV-02042-LKK-GGH, issued a stipulated order for permanent injunctive relief under which DJJ would revise the process for juvenile parole revocation.

The L.H. lawsuit challenged violations of juvenile parolees' rights under the due process clause of the Fourteenth Amendment of the United States Constitution (US Constitution), the Rehabilitation Act, and the Americans with Disabilities Act (ADA). The lawsuit asked the federal court to order the CDCR, DJJ, Board of Parole Hearings (BPH), and the Juvenile Parole Board (JPB) to bring juvenile parole revocation procedures into compliance with the Constitution and the ADA.

The L.H. lawsuit claims that the CDCR, DJJ, BPH, and JPB violated the US Constitution and the ADA by failing to inform parolees of their rights and/or charges against them prior to seeking waivers or admissions, arresting and holding parolees for weeks or months without establishing any hearing to determine probable cause, and failing to give parolees enough notice of the charges against them before their revocation or "Morrissey" hearing (*Morrissey v. Brewer*, 408 U.S. 481 (1972)). Furthermore, CDCR, DJJ, BPH, and JPB failed to provide parolees with disabilities and other special communication needs the help required to understand documents and forms, their rights and the charges against them, to speak on their own behalf, and to understand what was being said and done in the revocation process.

Section 1004 of the Welfare and Institutions (W&I) Code establishes that DJJ shall have charge of the persons committed to or confined in DJJ institutions and shall provide for their care, supervision, education, training, employment, discipline, and government. DJJ shall exercise its powers toward the correction of their faults, the development of their characters, and the promotion of their welfare.

Section 1703(c) of the W&I Code states, "Youth Authority," "Authority," "authority," or "division" means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

In July 2005, Section 1710(a) of the W&I Code abolished the Youth and Adult Correctional Agency. The same provision then created the CDCR, consisting of the Division of Adult

Operations, Division of Adult Programs, Division of Juvenile Justice, Corrections Standards of Authority, Board of Parole Hearings (now Juvenile Parole Board), State Commission on Juvenile Justice, Prison Industry and the Prison Industry Board.

Section 1712 (b) of the W&I Code assigns responsibility to the CDCR to make and enforce all rules appropriate to the proper accomplishment of the functions of the DJJ.

Section 224.70(e) of the W&I Code, states, "Youth" means any person detained in a facility of the Division of Juvenile Facilities. Per this section, DJJ will now identify a "ward" as a "youth".

Title 15, Subsection 4004(o) defines parolee. "Parolee" means any ward/youth who has been officially released on parole from an institution or camp. Per this section, DJJ will now identify a "ward" as a "parolee" where appropriate.

### **SPECIFIC PURPOSE AND FACTUAL BASIS**

The L.H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice promulgate rules and regulations to implement the Injunction. The proposed text is to ensure parolees in DJJ, regarding parole violation, detention, and revocation are given due process under *Morrissey v. Brewer*, 408 U.S. 481 (1972), the right to counsel under *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), and appropriate accommodations in compliance with the Americans with Disabilities Act (ADA) and the Rehabilitation Act.

**Existing Section 4845 is amended** to include definitions of terms pertaining to parole violations, detention and revocation. These definitions were included in the original proposed regulation language under Division 4.5, specifically Section 4900(b). However, these definitions did not apply to Division 4.0 but are used throughout Article 5. Therefore it is necessary to adopt specific definitions from Section 4900(b) in Division 4.0, Section 4845(a) for consistency within both Divisions. They are as follows:

**New Subsection 4845(a) is adopted** to read: Definitions. For the purpose of the regulations contained in this article, the following words shall have the following meanings:

**New Subsection 4845(a) (1) is adopted** to define the term "Charges as behaviors and corresponding codes describing the alleged violation(s) of parole conditions." The Division of Juvenile Justice has developed a matrix that identifies behaviors and corresponding codes describing parole violations, as required by the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice refers to these behaviors and parole violations as "charges." This term is used in multiple places within the proposed regulation text. Defining the term is necessary for clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term "charges."

**New Subsection 4845(a) (2) is adopted** to define "Corrective Action Plan, DJJ 3.221 (REV 04/09) incorporated by reference, as a treatment and supervision sanction in the community developed at the parole field unit level, imposed upon parolees in response to parole violations as an alternative to revocation for which detention is not warranted." This term is defined in the L.H. Stipulated Permanent Injunction and requires that the Division of Juvenile Justice offer an alternative to incarceration for Level 1 and 2 parole violations in the form of a Corrective Action Plan. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4845. This term is used in multiple places within the proposed regulation text. Defining the term is necessary for

clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term “Corrective Action Plan.” In addition, in order for the Division of Juvenile Justice to utilize the Corrective Action Plan, DJJ 3.221 (REV 04/09) form, it must be adopted in the regulations and incorporated by reference.

**New Subsection 4845(a) (3) is adopted** to define “Date of Discovery as the date that the Division of Juvenile Justice obtains knowledge that an alleged violation of parole has occurred.” The Division of Juvenile Justice uses the Date of Discovery to determine due dates pertaining to parole revocation proceedings to ensure the parolee/parole violator receives due process in a timely manner. This term is used in multiple places within the proposed regulation text. Defining the term is necessary for clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term “Date of Discovery.”

**New Subsections 4845(a) (4) (A-D) are adopted** to define “Detention Criteria as factors or behavior(s) that may demonstrate a need for detention and include a parolee that is a danger to himself/herself; a parolee that is a danger to the person or property of another; a parolee that is at risk to abscond from parole supervision; or a parolee’s mental state has deteriorated to the point where it is likely that there is a threat to public safety.” The Division of Juvenile Justice believes that there are certain factors or behavior(s) that may warrant the detainment of a parolee and includes a parolee that is a danger to himself/herself; a parolee that is a danger to the person or property of another; a parolee that is at risk to abscond from parole supervision; or a parolee’s mental state has deteriorated to the point where it is likely that there is a threat to public safety. Therefore, it is necessary to establish these criteria to protect both the parolee and the public and to provide staff with these specific criteria when making a determination to place a Parole Hold on a youth that is suspected of violating his/her parole.

**New Subsection 4845(a) (5) is adopted** to define “Disability as a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such impairment or condition; or being regarded as having such an impairment or condition.” This is necessary as the L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to define the term in the same manner as to include all persons considered to have a disability under the Americans with Disabilities Act and/or Rehabilitation Act.

**New Subsection 4845(a) (6) is adopted** to define “Effective Communication as communication with persons with disabilities or those with limited English skills and reading ability that is as effective as communication with others. Effective communication may require the use of an appropriate auxiliary aid or service, or may be achieved by methods such as speaking clearly or using simple language and soliciting feedback to ensure understanding” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with effective communication throughout the entire parole revocation process. The Division of Juvenile Justice believes effective communication is appropriately defined as communication with persons with disabilities or those with limited English skills and reading ability that is as effective as communication with others and is consistent with the L.H. Stipulated Permanent Injunction requirement. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity concerning the scope of what constitutes effective communication to a parolee and Division of Juvenile Justice staff.

**New Subsection 4845(a) (7) is adopted** to define “Good Cause as justifiable, legitimate, and unforeseeable reason for the delay, asserted in good faith and caused by factors that are beyond the control of the Division of Juvenile Parole Operations, the Juvenile Parole Board, or the Division of Juvenile Justice.” The L.H. Stipulated Permanent Injunction requires the Division of

Juvenile Justice to establish what circumstances may constitute good cause for delayed hearings. The Division of Juvenile Justice believes that good cause is appropriately defined as justifiable, legitimate, and unforeseeable reasons caused by factors that are beyond the control of the Division of Juvenile Parole Operations, the Juvenile Parole Board, or the Division of Juvenile Justice. Therefore, it is necessary to establish these criteria to provide clarity to Division of Juvenile Justice staff concerning the scope of what constitutes good cause and will ensure the Revocation/Revocation Extension Hearing occurs in a timely manner.

**New Subsection 4845(a) (8) is adopted** to define “Not-In-Custody as a parolee who is not on a Division of Juvenile Justice parole hold.” Not all parolee’s suspected of violating his/her parole warrant detention. A parolee must meet the detention criteria as defined above in Subsection 4845 (a) (4) (A-D) in order to be considered for a Parole Hold. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile Justice staff concerning what is meant by the term “Not-In-Custody.”

**New Subsection 4845(a) (9) is adopted** to define “Notice of Charges, DJJ 3.274 (REV 04/09), incorporated by reference, as an official action conducted by Division of Juvenile Justice staff to personally serve a parolee notice of the charges against him/her including a short factual summary of the charged conduct.” Informing a parolee of the charges against him/her is required by the L.H. Stipulated Permanent Injunction and is accomplished by serving a Notice of Charges form. Therefore, it is necessary to define the term to provide clarity and establish that this as an official action. In addition, in order for the Division of Juvenile Justice to utilize the Notice of Charges, DJJ 3.274 (REV 04/09) form, it must be adopted in the regulations and incorporated by reference.

**New Subsection 4845(a) (10) is adopted** to define “Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10), incorporated by reference, as the advisement to a parolee of his/her procedural and due process rights in parole revocation proceedings.” Informing a parolee of his/her procedural and due process rights in parole revocation proceedings is required by the L.H. Stipulated Permanent Injunction and State and federal constitutions. Therefore, this is necessary to provide clarity as this term is used in multiple places within the proposed regulation text and is the method in which a parolee is advised of his/her rights. In addition, in order for the Division of Juvenile Justice to utilize the Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10) form, it must be adopted in the regulations and incorporated by reference.

**New Subsection 4845(a) (11) is adopted** to define Parole Hold as any invocation by the Division of Juvenile Justice of their authority to involuntarily detain a parolee for revocation proceedings and/or commence revocation proceedings pursuant to Welfare & Institutions Code §1767.3. This term shall not apply to the detention of a parolee who has absconded from the State of California until he or she is physically returned to the State of California and is in custody.” The Division of Juvenile Justice believes that there are certain factors or behavior(s) that may warrant the detainment of a parolee and includes a parolee that is a danger to himself/herself; a parolee that is a danger to the person or property of another; a parolee that is at risk to abscond from parole supervision; or a parolee’s mental state has deteriorated to the point where it is likely that there is a threat to public safety. When a parolee meets the detention criteria, the Division of Juvenile Justice places a Parole Hold on the parolee to protect both the parolee and the public. This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4845. This term is used in multiple places within the proposed regulation text. Defining the term is necessary for clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term “Parole Hold.”

**New Subsection 4845(a) (12) is adopted** to define “Parole Violator as a parolee who violated a condition of parole, and who has been revoked and returned to custody.” Once the parolee is returned to custody, the parolee is referred to as a parole violator. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity so that parolees and Division of Juvenile Justice staff understand what is meant by the term “parole violator.”

**New Subsection 4845(a) (13) is adopted** to define “Probable Cause Hearing as a hearing in which the juvenile parolee appears and at which it is determined whether there is probable cause to believe that the juvenile parolee has violated a condition of parole and, if so, whether the juvenile parolee should be detained during the revocation process.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4845. This term is used in multiple places within the proposed regulation text and is necessary to distinguish between the different types of hearings conducted during the revocation process.

**New Subsection 4845(a) (14) is adopted** to define “Reasonable Accommodation as a modification or adjustment that will help provide equal access to programs, activities and services for parolees with disabilities or effective communication needs.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with necessary, reasonable accommodations. The Division of Juvenile Justice believes that reasonable accommodation is appropriately defined as a modification or adjustment that will help provide equal access to programs, activities and services for parolees with disabilities or effective communication needs. It is necessary to define this term so staff have a clear understanding of what is meant by a reasonable accommodation. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile Justice staff concerning what is meant by the term “reasonable accommodation.”

**New Subsection 4845(a) (15) is adopted** to define “Revocation Extension Hearing as a two-phase hearing (evidentiary and disposition) in which a parole violator appears before the Juvenile Parole Board, at which it is determined whether the preponderance of the evidence shows that the parole violator committed Willful Program Failure or Serious In-Custody Misconduct, and in which the parole violator’s parole revocation period may be extended. A parole violator’s parole revocation period may not be extended because of the Division of Juvenile Justice’s failure to provide a recommended program at all or in a timely manner.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4845. This term is used in multiple places within the proposed regulation text and is necessary to distinguish between the different types of hearings conducted during the revocation process.

**New Subsection 4845(a) (16) is adopted** to define “Revocation Extension Probable Cause Hearing as a hearing in which the parole violator appears and at which it is determined whether there is probable cause to believe that the parole violator committed either Serious In-Custody Misconduct or Willful Program Failure.” Although the L.H. Stipulated Permanent Injunction does not define the term “Revocation Extension Probable Cause Hearing,” it does define “Probable Cause Hearing.” The Division of Juvenile Justice believes the proposed definition is appropriate and is consistent with the L.H. Stipulated Permanent Injunction. This term is used in multiple

places within the proposed regulation text and is necessary to distinguish between different types of hearings conducted during the revocation/revocation extension process.

**New Subsection 4845(a) (17) is adopted** to define “Revocation Hearing as a two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that a parolee violated a condition of parole and whether the parolee should be returned to parole supervision or remanded to custody.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4845. This term is used in multiple places within the proposed regulation text and is necessary to distinguish between different types of hearings conducted during the revocation process.

**New Subsection 4845(a) (18) is adopted** to define “Revocation Proceeding/Revocation Process as all stages of the process by which a parolee/parole violator may be returned to or retained in custody following an alleged parole violation up to and including the revocation or revocation extension hearing and any administrative appeal. In the case of alleged parole violators who are not in custody, the revocation process begins when the parolee is notified of the pending charges and of his/her rights.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4845. This term is used in multiple places within the proposed regulation text and is necessary to describe all stages of the process.

**New Subsection 4845(a) (19) is adopted** to define “Revocation Release Date as the date in which a parole violator will be released to the community.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a matrix of ranges of revocation terms for specific violations. This matrix establishes a parole violator’s parole revocation period which in turn establishes a date in which the parole violator will be released back to the community. The Division of Juvenile Justice believes the proposed definition is appropriate and is consistent with the L.H. Stipulated Permanent Injunction. This term is used in multiple places within the proposed regulation text and is necessary to provide clarity to parolees and Division of Juvenile Justice staff concerning the scope of what constitutes the Revocation Release Date.

**New Subsection 4845(a) (20) is adopted** to define “Serious In-Custody Misconduct as in-custody behavior by a parole violator that poses an immediate and serious threat to the safety and security of youth, staff or property within the facility.” The L.H. Stipulated Permanent Injunction specifies that the parolee’s revocation period may not be extended beyond one year except in circumstances of willful program failure or serious in-custody misconduct. The Division of Juvenile Justice believes that serious in-custody misconduct is appropriately defined as in-custody behavior by a parole violator that poses an immediate and serious threat to the safety and security of youth, staff or property within the facility. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile Justice staff concerning what is meant by the term “serious in-custody misconduct.”

**New Subsection 4845(a) (21) (A-C) are adopted** to define “Violation Levels as (A) Level 1: Minor violations of parole for which detention may not be warranted; (B) Level 2: Selected minor law violations, moderate technical violations, or repetitive Level 1 behavior for which detention may not be warranted; and (C) Level 3: Any behavior that the Division of Juvenile Parole Operations believes represents a risk or threat to public safety. Level 3 violations are mandatory referrals to the Juvenile Parole Board.” The L.H. Stipulated Permanent Injunction speaks to 3 levels of parole violations and allows violations of Level I or II to be resolved without the

Juvenile Parole Board approval. However, Level 3 violations are mandatory referrals to the Juvenile Parole Board. The Division of Juvenile Justice believes that the criteria for each violation level is appropriately defined and is necessary to establish each violation level and comply with the L.H. Stipulated Permanent Injunction. Defining the different levels will also provide clarity to Division of Juvenile Justice staff and parolees.

**New Subsection 4845(a) (22) is adopted** to define “Willful Program Failure as repeated and intentional refusal to attend and/or participate in a treatment and training program. The repeated refusal shall be documented by treatment staff. Staff shall specify the dates of non-participation and shall include information demonstrating that the parole violator does not have a mental or physical impairment that prevents him/her from fully participating in the program. A parole violator shall not be charged with willful program failure when program unavailability, facility lockdown, instructor absence or other circumstances beyond the parole violator’s control prevent him/her from completing the program prior to the expiration of his/her revocation term.” The L.H. Stipulated Permanent Injunction specifies that the parolee’s revocation period may not be extended beyond one year except in circumstances of willful program failure or serious in-custody misconduct. Although the L.H. Stipulated Permanent Injunction does not provide a definition or criteria for willful program failure, the Division of Juvenile Justice believes that the definition and criteria set forth in this new subsection is consistent with the intent of the L.H. Stipulated Permanent Injunction. Adoption of this subsection is necessary to establish and provide clarity to Division of Juvenile Justice staff and parolees concerning the scope of what constitutes willful program failure.

**Existing Section 4846 is amended** to change the name “Youth Authority” and replace it with “Division of Juvenile Justice” to comply with Section 1703(c) of the W&I Code, which states, “‘Youth Authority,’ ‘Authority,’ ‘authority,’ or ‘division’ means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.” The California Youth Authority by state law has been changed to the Division of Juvenile Justice. Delete the word “ward” and replace it with the word “parolee” to comply with Section 224.70(e) of the W&I Code and Title 15, Subsection 4004(o). In addition, “or peace officer” has been added to Subsection 4846 (c) for clarity.

**Existing Section 4847 is amended** to delete the word “Ward” and replace it with the word “Parolee” to comply with Section 224.70(e) of the W&I Code and Title 15, Subsection 4004(o). In addition, the word “her” has been added to Subsection 4847(b)

**Existing Section 4848 is amended** to delete the words “Ward’s” and replace it with the word “Parolee’s” to comply with Section 224.70(e) of the W&I Code and Title 15, Subsection 4004(o). In addition, the word “and” was replaced with the word “or” in Subsection 4848(b) for clarity.

**Existing Section 4848.5 is amended** to delete the word “Department” and insert “Division of Juvenile Justice” to comply with Section 1703(c) of the W&I Code, which states “‘Youth Authority,’ ‘Authority,’ ‘authority,’ or ‘division’ means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.” The California Youth Authority by state law has been changed to the Division of Juvenile Justice. Delete the word “Ward(s)” and replace it with the word “Parolee” to comply with Section 224.70(e) of the W&I Code and Title 15, Subsection 4004(o).

**New Section 4849 is adopted** to add the following: “The criteria to warrant detention of a parolee are outlined in section 4978.” The section has been moved to Section 4978 to avoid an issue of duplicity in latter sections of the CCR.

**Existing Section 4850 is amended** to delete “at the initiation of parole staff” and add after the word “hearing”, “whereupon there is a proper showing that detention criteria are met”. After the word “hours” add “and the parolee released from its custody within three (3) business days” and delete “or as specified by the Board.” The L. H. Stipulated Permanent Injunction states that no later than two business days after a parole hold is placed, the Parole Agent and Supervising Parole Agent will determine whether further detention of the parolee is warranted pending a formal Probable Cause Hearing. The Division of Juvenile Justice believes that there are certain factors or behavior(s) that may warrant the detainment of a parolee and includes a parolee that is a danger to himself/herself; a parolee that is a danger to the person or property of another; a parolee that is at risk to abscond from parole supervision; or a parolee’s mental state has deteriorated to the point where it is likely that there is a threat to public safety. The Division of Juvenile Justice believes that establishing a timeframe of three business days for release of the parolee not meeting the detention criteria is consistent with this L. H. Stipulated Permanent Injunction requirement. Adoption of this subsection is necessary to establish these guidelines and limit the amount of time a parolee not meeting the detention criteria may be held in custody.

**Section 4851 remains unchanged.**

**Existing Subsection 4852 (a) is amended to** discontinue using the form “Notice to Parolee Awaiting Violation Action” as this form is outdated and no longer in use. Subsection 4852 (a) is also amended to adopt the “Notice of Revocation Rights and Acknowledgement” form, (DJJ 3.270) (Rev. 08/10), the “Notice of Charges” form, (DJJ 3.274) (Rev. 04/09), the “Request for Accommodation and Assistance” form, (DJJ 3.260) (New 01/09), and the “Accommodation and Assistance Grievance” form, DJJ 3.261 (NEW 01/09). The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to inform a parolee of the charges against him/her and of his/her procedural and due process rights in parole revocation proceedings. The L.H. Stipulated Permanent Injunction also requires the Division of Juvenile Justice to provide parolees with accommodations for disabilities and/or effective communication in a timely manner, as well as a method to resolve disputes concerning requested accommodations and/or assistance. The L.H. Stipulated Permanent Injunction further requires the Division of Juvenile Justice to establish a method to track the timeliness of these provisions. To comply with these requirements, the Division of Juvenile Justice developed the above forms to track the timeliness of said provisions. The “Notice of Revocation Rights and Acknowledgement” form requires the parolee’s signature and enables the Division of Juvenile Justice to track that the parolee has received all of the required notifications and documents. In order for the Division of Juvenile Justice to utilize these forms, they must be adopted in the regulations and incorporated by reference. Amendment of this subsection is necessary to replace the obsolete form and establish the new forms to ensure the parolee is notified of his/her rights in a timely manner.

**Existing Subsection 4852 (b) is amended to** add “Juvenile Parole” in front of Board” to clarify which Board this refers to. Subsection 4852 (b) is also amended to delete “available for Board review within the time constraints fixed by the Board and contain, when appropriate” and add “submitted to the Juvenile Parole Board for review within seven (7) business days from the date of the Division’s parole hold, or in the case of Not-in Custody violation reports within 20 business days of the Notice of Rights and Charges. The Violation Report, DJJ 3.264A (REV 09/09), incorporated by reference, shall contain”. The L.H. Stipulated Permanent Injunction speaks to 3 levels of parole violations and allows violations of Level I or II to be resolved without the Juvenile Parole Board approval. However, Level 3 violations are mandatory referrals to the Juvenile Parole Board. The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with timely hearings. The existing regulation language is vague and does not provide sufficient guidelines for Division of Juvenile Justice staff. The

Division of Juvenile Justice believes the amended language is consistent with the L.H. Stipulated Permanent Injunction. In addition, the L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a form to document their determination concerning whether probable cause exists. In order for the Division of Juvenile Justice to utilize the Violation Report, DJJ 3.264A (REV 09/09), form, it must be adopted in the regulations and incorporated by reference. Amendment of this subsection is necessary to establish specific timelines for Division of Juvenile Justice staff to ensure that parolees receive timely hearings and to establish the Violation Report, DJJ 3.264A (REV 09/09), form as the method for documenting the determination concerning whether probable cause exists.

**Existing Subsection 4852 (b) (1) is amended** to delete “condition(s) of parole allegedly violated” and to add “charges” for clarity and consistency of terms used throughout the proposed regulations.

**Existing Subsection 4852 (b) (2) is amended** to add “including the parolee’s version, if any” to provide the parolee with the opportunity to submit a statement concerning the charges against him/her.

**Existing Subsection 4852 (b) (3) remains unchanged.**

**Existing Subsection 4852 (b) (4) is repealed.** Text was added to Subsection 4852 (b) (2) to include the parolee’s statement. The L.H. Stipulated Permanent Injunction prohibits the Division of Juvenile Justice from accepting any written admission to a violation of a condition of parole prior to the parolee’s first meeting with his/her counsel. “Parole staff shall advise a ward being interviewed that his statement may be used by the Board in making decisions about his liberty” has been repealed. This language is contradictory to the prohibition contained in the L.H. Stipulated Permanent Injunction and is therefore repealed.

**New Subsection 4852 (c) is adopted** to read “A parolee may be returned to custody for up to one (1) year for a parole violation consistent with the Revocation Matrix, REV 11/2008, incorporated by reference, established by the Juvenile Parole Board.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a matrix of ranges of revocation terms for specific violations and prohibits the Division of Juvenile Justice from extending the revocation period beyond one year except in circumstances of willful program failure or serious in-custody misconduct. The Division of Juvenile Justice has developed the Revocation Matrix in compliance with the L.H. Stipulated Permanent Injunction. The Revocation Matrix prescribes revocation terms based on type of offense and no revocation term exceeds one (1) year. Currently, the existing regulations do not provide any provisions consistent with the L.H. Stipulated Permanent Injunction requirements. Therefore, adoption of this subsection is necessary to establish who is responsible for establishing the matrix these criteria in order to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4852 (d) is adopted** to read “Parole violations that consist of Level I or Level II behaviors may be resolved by the Parole Agent and Supervising Parole Agent at the field unit level without requiring final approval by the Juvenile Parole Board.” The L.H. Stipulated Permanent Injunction does not require notification of the Juvenile Parole Board for level 1 or 2 violations and permits these violations to be resolved by the Parole Agent and Supervising Parole Agent at the field unit level without the Juvenile Parole Board’s approval. The Division of Juvenile Justice agrees. Currently, the existing regulations do not provide any provisions for resolving Level I or 2 behaviors at the field unit level. Therefore, adoption of this subsection is necessary to establish these criteria in accordance with the L.H. Stipulated Permanent Injunction.

**New Subsection 4852 (e) is adopted** to read “If a parolee rejects a Corrective Action Plan, DJJ 3.221 (REV 04/09), incorporated by reference, recommendation made in response to a Level I or Level II violation, the case will be handled through the parole revocation process using the date the parolee rejected the Corrective Action Plan, DJJ 3.221 (REV 04/09), as the date of discovery.” The L.H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice offer an alternative to incarceration for Level 1 and 2 parole violations in the form of a Corrective Action Plan. Initially the date of discovery is the date in which the Division of Juvenile Justice obtains knowledge that an alleged violation has occurred. The Division of Juvenile Justice believes that resetting the date of discovery to the date the parolee rejects the Corrective Action Plan is appropriate. In addition, in order for the Division of Juvenile Justice to utilize the Corrective Action Plan, DJJ 3.221 (REV 04/09), form, it must be adopted in the regulations and incorporated by reference. Adoption of this subsection is necessary to: 1) establish that in the event a parolee rejects the Corrective Action Plan, the rejection date then becomes the date of discovery and 2) establish the Corrective Action Plan, DJJ 3.221 (REV 04/09) form as the official document provided to the parolee containing the terms of an alternative to incarceration.

**New Subsection 4853 (a) is adopted** to read “Parole Revocation shall address Level III parolee behavior which parole staff are required to report to the Juvenile Parole Board, including serious technical and/or law violations, and/or any Level 1 or Level 2 behavior that is exacerbated by repetition, severity and/or relation to the youth’s original commitment offense. The L.H. Stipulated Permanent Injunction does not preclude the Division of Juvenile Justice from referring a parolee for parole revocation when a parolee’s violation is a Level 1 or 2 behavior. The Division of Juvenile Justice believes that when a parolee repeatedly commits the same violation, or the severity of the violation increases or the parolee commits a violation directly related to the original commitment, the Level 1 or Level 2 violation constitutes a referral to the Juvenile Parole Board. Therefore, it is necessary to adopt this subsection to establish these criteria as circumstances in which parolee behaviors warrant reporting to the Juvenile Parole Board.

**New Subsection 4853 (b) is adopted** to read “If a parolee is not in custody, no later than ten (10) business days after the date of discovery, the Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10), Notice of Charges, DJJ 3.274 (REV 04/09), Request for Accommodation and Assistance, DJJ 3.260 (NEW 01/09), and Accommodation and Assistance Grievance, DJJ 3.261 (NEW 01/09) forms shall be served and explained to the parolee.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice inform a parolee of the charges against him/her and of his/her procedural and due process rights in parole revocation proceedings. The L.H. Stipulated Permanent Injunction also requires the Division of Juvenile Justice provide parolees with accommodations for disabilities and/or effective communication in a timely manner, as well as a method to resolve disputes concerning requested accommodations and/or assistance. The L.H. Stipulated Permanent Injunction further requires the Division of Juvenile Justice to establish a method to track the timeliness of the above provisions. To comply with these requirements, the Division of Juvenile Justice developed the above forms to track the timeliness of said provisions. The “Notice of Revocation Rights and Acknowledgement” form requires the parolee’s signature and enables the Division of Juvenile Justice to track that the parolee has received all of the required notifications and documents. For parolees in-custody, these documents must be provided to the parolee within 3 business days of the parole hold. The L.H. Stipulated Permanent Injunction further requires the Division of Juvenile Justice promulgate procedures to provide the same notification for parolees not in-custody. The Division of Juvenile Justice believes the 10 day timeframe is appropriate for parolees not-in-custody. Currently, the existing regulations do not provide a tracking mechanism

or a timeframe consistent with the L.H. Stipulated Permanent Injunction. Therefore, adoption of this subsection is necessary to establish this timeframe to ensure that not-in-custody parolees will receive the same required notifications and documents no later than 10 business days from the date of discovery.

**New Subsection 4853 (c) is adopted** to read “If a parolee remains in custody, no later than three (3) business days after the placement of the parole hold, the Notice of Rights and Acknowledgement, DJJ 3.270 (REV 08/10), Notice of Charges, DJJ 3.274 (REV 04/09), Request for Accommodation and Assistance, DJJ 3.260 (NEW 01/09), and Accommodation and Assistance Grievance, DJJ 3.261 (NEW 01/09) forms shall be served and explained to the parolee.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice inform a parolee of the charges against him/her and of his/her procedural and due process rights in parole revocation proceedings. The L.H. Stipulated Permanent Injunction also requires the Division of Juvenile Justice provide parolees with accommodations for disabilities and/or effective communication in a timely manner, as well as a method to resolve disputes concerning requested accommodations and/or assistance. The L.H. Stipulated Permanent Injunction requires parolees in-custody, be provided with the above provisions within 3 business days of the parole hold. The L.H. Stipulated Permanent Injunction further requires the Division of Juvenile Justice to establish a method to track the timeliness of the above provisions. To comply with these requirements, the Division of Juvenile Justice developed the above forms to track the timeliness of said provisions. The “Notice of Revocation Rights and Acknowledgement” form requires the parolee’s signature and enables the Division of Juvenile Justice to track that the parolee has received all of the required notifications and documents. The Division of Juvenile Justice agrees that the parolee should be informed of the charges against him/her and of his/her procedural and due process rights in parole revocation proceedings in a timely manner. Currently, the existing regulations do not provide a tracking mechanism or a timeframe consistent with the L.H. Stipulated Permanent Injunction. Therefore, adoption of this subsection is necessary to establish these forms as the tracking method and to establish the timeframe for receiving notification in order to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4853 (d) is adopted** to read “For rights and procedures governing revocation proceedings, see Sections 4977 through 4983.5.” Adoption of this subsection is necessary as there are additional provisions pertaining to the revocation proceedings that are not contained within this Section and the parolee needs to be aware of the location of these additional rights and procedures governing revocation proceedings.

**New Subsection 4853 (e) is adopted** to read “All charges arising from the conduct for which a parolee was taken into custody shall be adjudicated at the final Revocation Hearing within 35 calendar days from the placement of the parole hold absent good cause. Charges may not be split going beyond 35 days in the absence of good cause.” The L. H. Stipulated Permanent Injunction requires that all charges arising from conduct for which a parolee was taken into custody shall be adjudicated at the final revocation hearing within 35 calendar days from the placement of the parole hold absent good cause and may not be split going beyond 35 days absent good cause. The Division of Juvenile Justice agrees. Currently, the existing regulations do not provide a timeframe for adjudication of the final revocation hearing consistent with the L. H. Stipulated Permanent Injunction. Therefore adoption of this subsection is necessary to establish that adjudication of the final revocation hearing will occur within 35 calendar days from the placement of the parole hold absent good cause and may not be split going beyond 35 days absent good cause to comply with the L. H. Stipulated Permanent Injunction.

**New Subsection 4853 (f) is adopted** to read “If chargeable behavior known to the Division of Juvenile Parole Operations prior to notice being served on the parolee is not included in the initial notice of charges, such conduct cannot serve as the basis for subsequent charges.” Currently, the existing regulations do not provide any provisions for chargeable behavior known to the Division of Juvenile Parole Operations prior to notice being served on the parolee that is not included in the initial notice of charges. The Division of Juvenile Justice believes that in the event the Division of Juvenile Parole Operations fails to include all known chargeable behaviors in the initial notice of charges, it would be unfair to allow these charges to be introduced at a later date in the revocation process. Therefore, adoption of this subsection is necessary to establish these criteria and is consistent with the L.H. Stipulated Permanent Injunction.

**New Subsection 4853 (g) is adopted** to read “If chargeable behavior is discovered after the notice of rights, but before the revocation packet has been submitted to the Juvenile Parole Board, the parolee can be served on the new charges, and the new charges incorporated into the initial revocation packet.” The L. H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop procedures addressing new charges discovered after the notice of rights. The Division of Juvenile Justice believes if additional chargeable behaviors are discovered prior to the submission of the revocation packet to the Juvenile Parole Board, the parolee should be charged with the new charges and these charges included in the revocation packet. Currently, the existing regulations do not provide any provisions concerning new charges. Therefore, adoption of this section is necessary to establish that if chargeable behaviors occurred after the notice of rights, but before the revocation packet has been submitted to the Juvenile Parole Board, the parolee can be served on the new charges.

**New Subsection 4853 (h) is adopted** to read “Any supplemental charges must be based on conduct that occurs or is discovered by the Division of Juvenile Parole Operations after the parole hold, but before the Revocation Hearing. These supplemental charges must be raised 48 hours prior to the Revocation Hearing.” The L. H. Stipulated Permanent Injunction requires that any additional evidence or documents be provided to the parolee’s counsel 48 hours prior to the Revocation Hearing. The Division of Juvenile Justice believes that this would also include supplemental charges. Currently, the existing regulations do not provide any provisions concerning supplemental charges. Therefore, it is necessary to adopt this subsection to establish this timeframe for supplemental charges.

**New Subsection 4853 (i) is adopted** to read “The parole revocation term imposed by the Juvenile Parole Board may not exceed 12 months and must be consistent with the Revocation Matrix, incorporated by reference. A parolee’s revocation period can only be extended through the revocation extension process as described in Section 4854.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a matrix of ranges of revocation terms for specific violations. The L. H. Stipulated Permanent Injunction specifies that a parole revocation period shall not exceed 12 months except in circumstances of willful program failure or serious in-custody violations. Currently, the existing regulations do not provide any provisions consistent with this requirement. Therefore, adoption of this subsection is necessary to establish this criteria to comply with the L. H. Stipulated Permanent Injunction.

**New Subsection 4853 (j) is adopted** to read “The Juvenile Parole Board shall track the timeliness of the revocation process and reasons proffered for any delays.” L. H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to track the timeliness of Revocation Hearings and reasons for any delays. The Division of Juvenile Justice agrees. Currently, the existing regulations do not provide any provisions consistent with this requirement. Therefore, adoption of this subsection is necessary to establish that the Juvenile Parole Board will

be the responsible party for tracking the timeliness of the revocation process and reasons proffered for any delays in compliance with this L. H. Stipulated Permanent Injunction requirement.

**New Subsection 4853 (k) is adopted** to read “Timely and reasonable accommodations for effective communication and meaningful participation shall be provided to parolees at all parole revocation proceedings. This includes accommodations for parolees with limited English skills, effective communication needs, and/or disabilities.” Currently, the existing regulations do not provide any provisions consistent with this requirement. The Division of Juvenile Justice believes adoption of this subsection is necessary to ensure timely and reasonable accommodations for effective communication and meaningful participation are provided to all parolees at all parole revocation proceedings regardless of their effective communication needs or disabilities, and is in accordance with the Americans with Disabilities Act and the L. H. Stipulated Permanent Injunction.

**New Subsection 4853 (l) is adopted** to read “Parolees charged with Serious In-Custody Misconduct involving violence against a person that occurs while the parolee is in custody pending revocation proceedings may be assessed up to an additional 12 months based upon relevant assessments as provided in the Revocation Extension Matrix, incorporated by reference.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a matrix of ranges of revocation terms for specific violations. The L. H. Stipulated Permanent Injunction specifies that a parole revocation period shall not exceed 12 months except in circumstances of Willful Program Failure or Serious In-Custody violations. A parole violator who commits an act of Serious In-Custody Misconduct or Willful Program Failure while in revoked status is subject to revocation extension proceedings. The Division of Juvenile Justice believes that an additional 12-month term for serious in-custody misconduct is in line with the intent of the L. H. Stipulated Permanent Injunction. Currently, the existing regulations do not provide any provisions consistent with this requirement. Therefore, adoption of this subsection is necessary to establish an additional time period not exceeding 12 months that the parolee may incur due to serious in-custody misconduct.

**New Section 4854 is adopted and titled Parole Revocation Extension Process.**

**New Subsection 4854 (a) is adopted** to read “A parole violator who commits an act of Serious In-Custody Misconduct or Willful Program Failure while in revoked status is subject to revocation extension proceedings.” The L. H. Stipulated Permanent Injunction provides that if a parolee commits a Serious In-Custody Misconduct or Willful Program Failure violation during revoked status, the parolee is subject to the revocation extension process. The Division of Juvenile Justice agrees. Currently, the existing regulations do not provide any provisions consistent with this requirement. Therefore, adoption of this subsection is necessary to comply with the L. H. Stipulated Permanent Injunction.

**New Subsection 4854 (b) is adopted** to read “Revocation extension proceedings will take place if qualifying misconduct occurs while the parole violator is in a local county facility, state prison, Division of Juvenile Justice facility or other detention facility.” The L. H. Stipulated Permanent Injunction provides that if a parolee commits a Serious In-Custody Misconduct or Willful Program Failure violation during revoked status, the parolee is subject to the revocation extension process. Currently, the existing regulations do not provide any provisions concerning revocation extension proceedings. The Division of Juvenile Justice believes that the parole violator is subject to the revocation extension proceedings regardless of where he/she is housed. Therefore, adoption

of this subsection is necessary to establish that the parole violator is subject to the revocation extension process regardless of location of the parole violator.

**New Subsection 4854 (c) is adopted** to read “The Division of Juvenile Parole Operations shall be responsible for the revocation extension process for those parole violators under the jurisdiction of the Division of Juvenile Justice and housed in non-Division of Juvenile Justice facilities.” The Division of Juvenile Justice believes the Division of Juvenile Parole Operations is the appropriate entity for assuming the responsibility of the revocation extension process for those parole violators under the jurisdiction of the Division of Juvenile Justice and housed in non-Division of Juvenile Justice facilities. Currently, the existing regulations do not provide any provisions concerning who is responsible for the revocation extension process for those parole violators under the jurisdiction of the Division of Juvenile Justice and housed in non-Division of Juvenile Justice facilities. Therefore, adoption of this subsection is necessary to establish the Division of Juvenile Parole Operations as the responsible entity for the revocation extension process for those parole violators under the jurisdiction of the Division of Juvenile Justice and housed in non-Division of Juvenile Justice facilities.

**New Subsection 4854 (d) is adopted** to read “The Division of Juvenile Facilities shall be responsible for the revocation extension process for parole violators housed in Division of Juvenile Justice facilities.” The Division of Juvenile Justice believes the Division of Juvenile Facilities is the appropriate entity for assuming the responsibility of the revocation extension process for those parole violators housed in Division of Juvenile Justice facilities. Currently, the existing regulations do not provide any provisions concerning who is responsible for the revocation extension process for those parole violators housed in Division of Juvenile Justice facilities. Therefore, adoption of this subsection is necessary to establish the Division of Juvenile Facilities as the responsible entity for the revocation extension process for those parole violators housed in Division of Juvenile Justice facilities. This is necessary to establish who is responsible for the revocation extension process for those parole violators housed in Division of Juvenile Justice facilities.

**New Subsection 4854 (e) is adopted** to read “If the Juvenile Parole Board sustains revocation extension charges, the period of revocation may be extended up to 12 months from the current Revocation Release Date, based on relevant assessments as provided in the Revocation Extension Matrix, incorporated by reference.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a matrix of ranges of revocation terms for specific violation. This matrix establishes a parole violator’s revocation period which in turn establishes the date in which the parole violator would be released back to the community. The Division of Juvenile Justice has established this matrix. The L.H. Stipulated Permanent Injunction further requires the Division of Juvenile Justice to provide parolees with an assessment prior to the Revocation Extension Probable Cause Hearing. This assessment as well as the Revocation Extension Matrix will be used to assist the Juvenile Parole Board in deciding an appropriate revocation extension period. The Division of Juvenile Justice agrees. Currently, the existing regulations do not provide any provisions concerning these requirements. Therefore, adoption of this subsection is necessary to establish these criteria when deciding the period of revocation extension.

**New Subsection 4854 (f) is adopted** to read “The Juvenile Parole Board may extend a parolee’s revocation period only after appointment of an attorney, a Probable Cause Hearing, and if the case is not resolved at this stage, a Revocation Extension Hearing, which shall take place before a Juvenile Parole Board Hearing Officer. Unless the parole violator waives or seeks continuance of a timely Revocation Extension Hearing, such a hearing shall take place at the earliest practical

time after the alleged conduct that is grounds for the charge and no later than 35 calendar days after the parole violator is served with notice of his/her charges and rights.” The L.H. Stipulated Permanent Injunction allows the Division of Juvenile Justice to extend a parolee’s revocation period only after a Revocation Extension Hearing which shall take place before a Juvenile Parole Board Hearing Officer at the earliest practical time after the alleged conduct that is grounds for the charge. In addition, the L.H. Stipulated Permanent Injunction establishes a 35-day time frame if the alleged conduct occurs within 30 days of the parolee’s revocation release date. The Division of Juvenile Justice believes that a 35-day time frame is also reasonable in the above circumstances. Currently, the existing regulations do not provide any provisions concerning these requirements. Therefore, adoption of this subsection is necessary to establish the criteria for extending a parole violator’s revocation period and is consistent with the L.H. Stipulated Permanent Injunction.

**New Subsection 4854 (g) is adopted** to read “A parole violator’s parole revocation period may not be extended because of the Division of Juvenile Justice’s failure to provide a recommended program at all or in a timely manner.” The L.H. Stipulated Permanent Injunction prohibits the Division of Juvenile Justice from extending a parole violator’s revocation period because the Division of Juvenile Justice’s failure to provide a recommended program at all or in a timely manner. The Division of Juvenile Justice agrees it would not be appropriate to penalize a parole violator for the Division of Juvenile Justice’s failure to provide a recommended program at all or in a timely manner. Currently, the existing regulations do not provide any provisions concerning this prohibition. Therefore, adoption of this subsection is necessary to establish that in the event that the Division of Juvenile Justice’s fails to provide a recommended program in a timely manner or fails to provide the recommended program at all, the parole violator’s revocation period will not be extended.

**New Subsection 4854 (h) is adopted** to read “In the event that the alleged conduct that is grounds for the charge occurs within 30 days prior to the parole violator’s Revocation Release Date, the Revocation Extension Hearing must occur at the earliest practical time after the alleged conduct, but, in any event, no later than 35 days after his/her Revocation Release Date, absent good cause for going beyond that time.” The L.H. Stipulated Permanent Injunction states that in the event that the alleged conduct that is grounds for the charge occurs within 30 days prior to the parole violator’s Revocation Release Date, the Revocation Extension Hearing must occur at the earliest practical time after the alleged conduct, but, in any event, no later than 35 days after his/her Revocation Release Date, absent good cause for going beyond that time. Currently, the existing regulations do not provide any provisions concerning criteria or a timeframe for the Revocation Extension Hearing. Therefore, adoption of this subsection is necessary to establish criteria and a timeframe for the Revocation Extension Hearing to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4854 (i) is adopted** to read “A parole violator may only be charged with one act of Serious In-Custody Misconduct or Willful Program Failure for each revocation extension referral. However, the parole violator may be subject to additional revocation extension actions for future incidents of Serious In-Custody Misconduct or Willful Program Failure.” The L. H. Stipulated Permanent Injunction provides that if a parolee commits a Serious In-Custody Misconduct or Willful Program Failure violation during revoked status, the parolee is subject to the revocation extension process. The Division of Juvenile Justice believes based on intent of the L.H. Stipulated Permanent Injunction this would also apply to any additional and/or future Serious In-Custody Misconduct or Willful Program Failure while the parole violator remains in revoked status. Currently, the existing regulations do not provide any provisions concerning additional revocation extension actions for future incidents of Serious In-Custody Misconduct or

Willful Program Failure. Therefore, adoption of this subsection is necessary to establish these criteria and to ensure that the parole violator understands that continued Serious In-Custody Misconduct or Willful Program Failure may result in further revocation extension periods.

**New Subsection 4854 (j) is adopted** to read “For rights and procedures governing the revocation extension process, see sections 4977 through 4983.5.” This is necessary to inform parolees and parole violators of the location of their rights and of the procedures governing the revocation extension process.

**New Subsection 4854 (k) is adopted** to read “The Juvenile Parole Board shall track the timeliness of revocation extension proceedings and reasons proffered for any delays.” L. H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to track the timeliness of Revocation Extension Hearings and reasons for any delays. The Division of Juvenile Justice agrees. Currently, the existing regulations do not provide any provisions concerning these requirements. Therefore, adoption of this subsection is necessary to protect both the parolee and the Division of Juvenile Justice and is consistent with the L. H. Stipulated Permanent Injunction.

**Existing Subsection 4900 (b) (1), is amended** to delete the term “Reserved.” Subsection 4900 (b) (2) is now Subsection 4900 (b) (1) and is amended to change “Annual Review” to “Annual Good Cause Review” for consistency with the use of this term throughout the proposed regulations. The word “ward” has been changed to “parolee” to comply with to comply with Section 224.70(e) of the W&I Code and Title 15, Subsection 4004(o). “Juvenile Parole” is added for clarity to identify which Board.

**Existing Subsection 4900 (b) (2) text is relocated** and is now Subsection 4900 (b) (1).

**New Subsection 4900 (b) (2) is adopted** to define “Board Coordinating Parole Agent as a Juvenile Parole Board agent responsible for coordination and facilitation of parole revocation proceedings, ensuring coordination and communication with counsel and witnesses, assisting with the provision of necessary accommodations and effective communication for parolees, and providing security at parole revocation proceedings.” This is necessary to provide clarity concerning the scope of what constitutes a Board Coordinating Parole Agent and the role the Board Coordinating Parole Agent plays during the revocation process.

**Existing Subsection 4900 (b) (3) is repealed.** This is necessary as this term is obsolete and no longer used.

**Existing Subsection 4900 (b) (4) is amended** and is now renumbered as 4900 (a) (3). “Juvenile Parole” is added for clarity to identify which Board.

**New Subsection 4900 (b) (4) is adopted** to define “Charges as behaviors and corresponding codes describing the alleged violation(s) of parole conditions.” The Division of Juvenile Justice has developed a matrix that identifies behaviors and corresponding codes describing parole violations, as required by the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice refers to these behaviors and parole violations as “charges.” This term is used in multiple places within the proposed regulation text. Defining the term is necessary for clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term “charges.”

**Existing Subsection 4900 (b) (5) is repealed.** This is necessary as this term is obsolete and no longer used. This term is being replaced with Probable Cause Hearing below.

**New Subsection 4900 (b) (5) is adopted** to define “Corrective Action Plan, DJJ 3.221 (REV 04/09) incorporated by reference, as a treatment and supervision sanction in the community developed at the parole field unit level, imposed upon parolees in response to parole violations as an alternative to revocation for which detention is not warranted.” This term is defined in the L.H. Stipulated Permanent Injunction and requires that the Division of Juvenile Justice offer an alternative to incarceration for Level 1 and 2 parole violations in the form of a Corrective Action Plan. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4900. This term is used in multiple places within the proposed regulation text. Defining the term is necessary for clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term “Corrective Action Plan.” In addition, in order for the Division of Juvenile Justice to utilize the Corrective Action Plan, DJJ 3.221 (REV 04/09) form, it must be adopted in the regulations and incorporated by reference.

**Existing Subsection 4900 (b) (6) is repealed.** This is necessary as this term is obsolete and no longer used.

**New Subsection 4900 (b) (6) is adopted** to define “Date of Discovery as the date that the Division of Juvenile Justice obtains knowledge that an alleged violation of parole has occurred.” The Division of Juvenile Justice uses the Date of Discovery to determine due dates pertaining to parole revocation proceedings to ensure the parolee/parole violator receives due process in a timely manner. This term is used in multiple places within the proposed regulation text. Defining the term is necessary for clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term “Date of Discovery.”

**Existing Subsection 4900 (b) (7) is repealed.** This is necessary as this term is obsolete and no longer used.

**New Subsection 4900 (b) (7) is adopted** to define “Day(s) as calendar days, unless otherwise specified.” This is necessary for clarity throughout the proposed regulations.

**Existing Subsection 4900 (b) (8) is amended** and renumbered new Subsection 4900 (b) (16). “Juvenile Parole” is added to identify which Board, the hearing is now conducted by five-members instead of seven, and a quorum of is now three instead of four members. These changes are necessary to be consistent with current Division of Juvenile Justice practices.

**New Subsections 4900 (b) (8) (A – D) are adopted** to define “Detention Criteria as factors or behavior(s) that may demonstrate a need for detention and include a parolee that is a danger to himself/herself; a parolee that is a danger to the person or property of another; a parolee that is at risk to abscond from parole supervision; or a parolee’s mental state has deteriorated to the point where it is likely that there is a threat to public safety.” The Division of Juvenile Justice believes that there are certain factors or behavior(s) that may warrant the detainment of a parolee and includes a parolee that is a danger to himself/herself; a parolee that is a danger to the person or property of another; a parolee that is at risk to abscond from parole supervision; or a parolee’s mental state has deteriorated to the point where it is likely that there is a threat to public safety. Therefore, it necessary to establish these criteria to protect both the parolee and the public and to provide staff with these specific criteria when making a determination to place a Parole Hold on a youth that is suspected of violating his/her parole.

**Existing Subsection 4900 (b) (9) is amended** and renumbered new Subsection 4900 (b) (17). The word “full” is deleted and “Juvenile Parole” is added to identify the Board, the word “is” is

deleted as this word is not necessary, “those persons specified in Welfare and Institutions Code Section 1721(c)” is deleted as this citation no longer exists, “three qualified hearing officers” is added to define the panel members and “member” is replaced with “Commissioner to be consistent with current Division of Juvenile Justice practices.

**New Subsection 4900 (b) (9) is adopted** to define Disability as a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such impairment or condition; or being regarded as having such an impairment or condition.” This is necessary as the L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to define the term in the same manner as to include all persons considered to have a disability under the Americans with Disabilities Act and/or Rehabilitation Act.

**Existing Subsection 4900 (b) (10) is amended** and renumbered new Subsection 4900 (b) (19). “Member” is no longer capitalized as this is not necessary and “ward is changed to “youth” to comply with Section 224.70(e) of the W&I Code.

**New Subsection 4900 (b) (10) is adopted** to define “The Disciplinary Decision Making System as the Division of Juvenile Justice facility disciplinary system which has the ability to impose a sanction, deprive a youth of something possessed, or deny something which a youth reasonably expects as part of his/her prescribed program because the youth commits an institutional rule or law violation.” Adoption of this subsection is necessary to comply with Welfare and Institutions Code 1719.5(e) which requires the Division of Juvenile Justice to develop a system of graduated sanctions for addressing youth disciplinary matters.

**Existing Subsection 4900 (b) (11) is amended** and renumbered new Subsection 4900 (b) (34). “Juvenile Parole” is added to identify the Board and “ward is changed to “youth” to comply with Section 224.70(e) of the W&I Code.

**New Subsection 4900 (b) (11) is adopted** to define “Dismissal as an action required if there is insufficient evidence to support a probable cause finding at the Probable Cause Hearing, if there is insufficient admissible evidence to make a finding of good cause by a preponderance of the evidence at the Revocation Hearing or Revocation Extension Hearing, or in the interest of justice.” This is necessary to provide clarity concerning the scope of what constitutes a dismissal.

**Existing Subsection 4900 (b) (12) remains unchanged and is renumbered new Subsection 4900 (b) (33).**

**New Subsection (b) (12) is adopted** to define “Dual Commitment as a person who is under the jurisdiction of both the Division of Juvenile Justice and Division of Adult Operations of the California Department of Corrections and Rehabilitation.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop procedures pertaining to revocation proceedings for dual commitments. Therefore, it is necessary to define what constitutes a dual commitment to comply with the L.H. Stipulated Permanent Injunction.

**Existing Subsection 4900 (b) (13) is repealed.** This is necessary as this term is obsolete and no longer used.

**New Subsection 4900 (b) (13) is adopted** to define “Effective Communication as communication with persons with disabilities or those with limited English skills and reading ability that is as effective as communication with others. Effective communication may require the use of an appropriate auxiliary aid or service, or may be achieved by methods such as

speaking clearly or using simple language and soliciting feedback to ensure understanding.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with effective communication throughout the entire parole revocation process. The Division of Juvenile Justice believes effective communication is appropriately defined as communication with persons with disabilities or those with limited English skills and reading ability that is as effective as communication with others and is consistent with the L.H. Stipulated Permanent Injunction requirement. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity concerning the scope of what constitutes effective communication to a parolee and Division of Juvenile Justice staff.

**New Subsection 4900 (a) (14) is adopted** to define “Exit Interview as a meeting with a parole violator and a hearing officer of the Juvenile Parole Board prior to a parole violator’s Revocation Release Date at which the general and special conditions of parole are issued and explained to the parole violator.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop procedures for parole exit meetings. The Division of Juvenile Justice has therefore established an Exit Interview to comply with this requirement. This interview will be used to provide the parole violator with the conditions of his/her parole and an opportunity for the parolee to provide feedback to the Division of Juvenile Justice. Adoption of this subsection is necessary to provide clarity concerning the scope of what constitutes an exit interview as this term is used in the proposed regulations.

**New Subsection 4900 (b) (15) is adopted** to define “Expedited Probable Cause Hearing as a Probable Cause Hearing held at an earlier stage in the proceedings upon sufficient offer of proof by the parolee or his/her counsel that there is a complete defense to all parole violation charges that are the basis for the parole hold.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide a parolee with an expedited Probable Cause hearing if there is a sufficient offer of proof by the parolee or his/her counsel that there is a complete defense to all parole violation charges that are the basis for the parole hold. This term is used in multiple places throughout the regulations. Therefore, it is necessary to adopt this subsection to provide clarity to Division of Juvenile Justice staff and to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4900 (b) (18) is adopted** to define “Good Cause. Justifiable, legitimate, and unforeseeable reason for the delay, asserted in good faith and caused by factors that are beyond the control of the Division of Juvenile Parole Operations, the Juvenile Parole Board, or the Division of Juvenile Justice.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to establish what circumstances may constitute good cause for delayed hearings. The Division of Juvenile Justice believes that good cause is appropriately defined as justifiable, legitimate, and unforeseeable reasons caused by factors that are beyond the control of the Division of Juvenile Parole Operations, the Juvenile Parole Board, or the Division of Juvenile Justice. Therefore, it necessary to establish these criteria to provide clarity to Division of Juvenile Justice staff concerning the scope of what constitutes good cause and will ensure the Revocation/Revocation Extension Hearing occurs in a timely manner.

**Existing Subsection 4900 (b) (10) is amended and renumbered new Subsection 4900 (b) (19).** “Member” is no longer capitalized as this is not necessary and “ward is changed to “youth” to comply with Section 224.70(e) of the W&I Code.

**New Subsection 4900 (b) (20) is adopted** to define “Not-In-Custody as a parolee who is not on a Division of Juvenile Justice parole hold.” Not all parolee’s suspected of violating his/her parole warrant detention. A parolee must meet the detention criteria as defined above in Subsection 4845

(a) (4) (A-D) in order to be considered for a Parole Hold. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile Justice staff concerning what is meant by the term “Not-In-Custody.”

**New Subsection 4900 (b) (21) is adopted** to define “Not-In-Custody Hearing as a Revocation Hearing for a parolee who is not under a Division of Juvenile Justice parole hold.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4900. This term is used in multiple places within the proposed regulation text. Adoption of this subsection is necessary to distinguish between the different types of hearings that occur during the revocation process.

**New Subsection 4900 (b) (22) is adopted** to define “Notice of Charges, DJJ 3.274 (REV 04/09), incorporated by reference, as an official action conducted by Division of Juvenile Justice staff to personally serve a parolee notice of the charges against him/her including a short factual summary of the charged conduct.” Informing a parolee of the charges against him/her is required by the L.H. Stipulated Permanent Injunction and is accomplished by serving a Notice of Charges form. Therefore, it is necessary to define the term to provide clarity and establish that this as an official action. In addition, in order for the Division of Juvenile Justice to utilize the Notice of Charges, DJJ 3.274 (REV 04/09) form, it must be adopted in the regulations and incorporated by reference.

**New Subsection 4900 (b) (23) is adopted** to define “Notice of Conditions of Parole, DJJ 3.207 (REV 04/10), incorporated by reference as the document that notifies a parolee of behavior and treatment requirements while under parole supervision.” The parolee must be informed of any behavior and/or treatment requirements that are a condition of his/her parole. The Division of Juvenile Justice has developed a form to notify the parolee of these conditions and to track that the parolee has been informed of said conditions of parole. In order for the Division of Juvenile Justice to utilize the Notice of Conditions of Parole, DJJ 3.207 (REV 04/10) form, it must be adopted in the regulations and incorporated by reference.

**New Subsection 4900 (b) (24) is adopted** to define “Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10), incorporated by reference, as an advisement to a parolee of his/her procedural and due process rights in parole revocation proceedings.” Informing a parolee of his/her procedural and due process rights in parole revocation proceedings is required by the L.H. Stipulated Permanent Injunction and State and federal constitutions. Therefore, this is necessary to provide clarity as this term is used in multiple places within the proposed regulation text and is the method in which a parolee is advised of his/her rights. In addition, in order for the Division of Juvenile Justice to utilize the Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10) form, it must be adopted in the regulations and incorporated by reference.

**New Subsection 4900 (b) (25) is adopted** to define “Parole Hold as any invocation by the Division of Juvenile Justice of their authority to involuntarily detain a parolee for revocation proceedings and/or commence revocation proceedings pursuant to Welfare & Institutions Code 1767.3. This term shall not apply to the detention of a parolee who has absconded from the State of California until he or she is physically returned to the State of California and is in custody.” The Division of Juvenile Justice believes that there are certain factors or behavior(s) that may warrant the detainment of a parolee and includes a parolee that is a danger to himself/herself; a parolee that is a danger to the person or property of another; a parolee that is at risk to abscond from parole supervision; or a parolee’s mental state has deteriorated to the point where it is likely

that there is a threat to public safety. When a parolee meets the detention criteria, the Division of Juvenile Justice places a Parole Hold on the parolee to protect both the parolee and the public. This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4900. This term is used in multiple places within the proposed regulation text. Defining the term is necessary for clarity so that a parolee and Division of Juvenile Justice staff understand what is meant by the term “Parole Hold.”.

**New Subsection 4900 (b) (26) is adopted** to define “Parole Placement Plans as a report prepared by the Division of Juvenile Parole Operations and provided to the Juvenile Parole Board in preparation for a parole violator’s release to parole supervision, which includes but is not limited to: identified placement, recommended special conditions of parole, supervision plans, educational/vocational plans, and community treatment plans.” As part of the process for releasing a youth on parole, pursuant to Section 4830, the Division of Juvenile Justice is required to assist parolees in obtaining adequate housing, employment, financial assistance, social and medical services, educational placement, and other resources or services which will increase the likelihood of a parolee’s adjustment in the community. To comply with this requirement, the Division of Juvenile Justice has developed a Parole Placement Plan. Therefore, it is necessary to define this term to provide clarity concerning the scope of what constitutes a Parole Placement Plan.

**New Subsection 4900 (b) (27) is adopted** to define “Parole Violator as a parolee who violated a condition of parole, and who has been revoked and returned to custody.” Once the parolee is returned to custody, the parolee is referred to as a parole violator. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity so that parolees and Division of Juvenile Justice staff understand what is meant by the term “parole violator.”

**New Subsection 4900 (b) (28) is adopted** to define “Preponderance of Evidence as standard of proof that requires a finding that it is more likely than not that a fact or charge is true.” This definition is necessary to provide clarity concerning the scope of what constitutes preponderance of evidence as this term is used in the proposed regulations and is consistent with current legal definitions used in a court of law.

**New Subsection 4900 (b) (29) is adopted** to define “Probable Cause as facts as would lead a person of ordinary caution and prudence to conscientiously entertain a strong suspicion that an alleged charge is true.” This definition is located in Division 4, Subsection 4004 (r) which does not pertain to Division 4.5. The definition in Division 4 is still valid and is therefore adopted in Division 4.5 to provide clarity concerning the scope of what constitutes probable cause as this term is used in the proposed regulations for Division 4.5.

**New Subsection 4900 (b) (30) is adopted** to define “Probable Cause Hearing as a hearing in which the juvenile parolee appears and at which it is determined whether there is probable cause to believe that the juvenile parolee has violated a condition of parole and, if so, whether the juvenile parolee should be detained during the revocation process.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4900. This term is used in multiple places within the proposed regulation text and is necessary to distinguish between the different types of hearings conducted during the revocation process.

**New Subsection 4900 (b) (32) is adopted** to define “Reasonable Accommodation as a modification or adjustment that will help provide equal access to programs, activities and services for parolees with disabilities or effective communication needs.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with necessary, reasonable accommodations. The Division of Juvenile Justice believes that reasonable accommodation is appropriately defined as a modification or adjustment that will help provide equal access to programs, activities and services for parolees with disabilities or effective communication needs. It is necessary to define this term so staff have a clear understanding of what is meant by a reasonable accommodation. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile Justice staff concerning what is meant by the term “reasonable accommodation.”

**Existing Subsection 4900 (b) (12) remains unchanged and is renumbered new Subsection 4900 (b) (33).**

**Existing Subsection 4900 (b) (11) is amended and is now renumbered as Subsection 4900 (a) (34).** “Juvenile Parole” is added to identify the Board and “ward is changed to “youth” to comply with Section 224.70(e) of the W&I Code.

**New Subsection 4900 (b) (35) is adopted** to define “Return to Custody Assessment or Revocation Extension Assessment as a recommended disposition offered by the Juvenile Parole Board which is presented to the parolee prior to a Probable Cause Hearing (also referred to as “The Offer”).” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with an assessment/Corrective Action Plan prior to the Probable Cause Hearing. Therefore it is necessary to adopt this subsection to comply with the L.H. Stipulated Permanent Injunction and to provide clarity concerning the scope of what constitutes Return to Custody Assessment or Revocation Extension Assessment as this term is used in the proposed regulations.

**New Subsection 4900 (b) (36) is adopted** to define “Revocation Extension Hearing as the two-phase hearing (evidentiary and disposition) in which a parole violator appears before the Juvenile Parole Board, at which it is determined whether the preponderance of the evidence shows that the parole violator committed Willful Program Failure or Serious In-Custody Misconduct, and in which the parole violator’s parole revocation period may be extended. A parole violator’s parole revocation period may not be extended because of the Division of Juvenile Justice’s failure to provide a recommended program at all or in a timely manner.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4900. This term is used in multiple places within the proposed regulation text and is necessary to distinguish between the different types of hearings conducted during the revocation process.

**New Subsection 4900 (b) (37) is adopted** to define “Revocation Extension Probable Cause Hearing as a hearing in which the parole violator appears and at which it is determined whether there is probable cause to believe that the parole violator committed either Serious In-Custody Misconduct or Willful Program Failure.” Although the L.H. Stipulated Permanent Injunction does not define the term “Revocation Extension Probable Cause Hearing,” it does define “Probable Cause Hearing.” The Division of Juvenile Justice believes the proposed definition is appropriate and is consistent with the L.H. Stipulated Permanent Injunction. This term is used in multiple places within the proposed regulation text and is necessary to distinguish between different types of hearings conducted during the revocation/revocation extension process.

**New Subsection 4900 (b) (38) is adopted** to define “Revocation Hearing. A two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that a parolee violated a condition of parole and whether the parolee should be returned to parole supervision or remanded to custody.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4900. This term is used in multiple places within the proposed regulation text and is necessary to distinguish between the different types of hearings conducted during the revocation process.

**New Subsection 4900 (b) (39) is adopted** to define “Revocation Proceeding/Revocation Process as all stages of the process by which a parolee/parole violator may be returned to or retained in custody following an alleged parole violation up to and including the revocation or revocation extension hearing and any administrative appeal. In the case of alleged parole violators who are not in custody, the revocation process begins when the parolee is notified of the pending charges and of his/her rights.” This term is defined in the L.H. Stipulated Permanent Injunction. The Division of Juvenile Justice agrees with the definition as defined by the L.H. Stipulated Permanent Injunction and has therefore included the definition within Section 4900. This term is used in multiple places within the proposed regulation text and is necessary to describe all stages of the process.

**New Subsection 4900 (b) (40) is adopted** to define “Revocation Release Date as the date in which a parole violator will be released to the community.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a matrix of ranges of revocation terms for specific violation. This matrix establishes a parole violator’s revocation period which in turn establishes the date in which the parole violator would be released back to the community. The Division of Juvenile Justice believes the proposed definition is appropriate and is consistent with the L.H. Stipulated Permanent Injunction. This term is used in multiple places within the proposed regulation text and is necessary to provide clarity to parolees and Division of Juvenile Justice staff concerning the scope of what constitutes the Revocation Release Date.

**New Subsection 4900 (b) (41) is adopted** to define “Serious In-Custody Misconduct as In-Custody behavior by a parole violator that poses an immediate and serious threat to the safety and security of youth, staff or property within the facility.” The L.H. Stipulated Permanent Injunction specifies that the parolee’s revocation period may not be extended beyond one year except in circumstances of willful program failure or serious in-custody misconduct. The Division of Juvenile Justice believes that serious in-custody misconduct is appropriately defined as in-custody behavior by a parole violator that poses an immediate and serious threat to the safety and security of youth, staff or property within the facility. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile Justice staff concerning what is meant by the term “serious in-custody misconduct.”

**New Subsection 4900 (b) (42) is adopted** to define “Sufficient Offer of Proof as a reasonable likelihood that a parolee would produce un-controverted evidence of his/her innocence at an expedited probable cause hearing.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide a parolee with an expedited Probable Cause hearing if there is a sufficient offer of proof by the parolee or his/her counsel that there is a complete defense to all parole violation charges that are the basis for the parole hold. The Division of Juvenile Justice believes that “Sufficient Offer of Proof” is appropriately defined and is consistent with L.H. Stipulated Permanent Injunction. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile

Justice staff concerning what is meant by the term “Sufficient Offer of Proof” to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4900 (b) (43) is adopted** to define “Victim as a person against whom a parole violation has been committed.” The Division of Juvenile Justice believes that “Victim” is appropriately defined and is consistent with L.H. Stipulated Permanent Injunction. This term is used in multiple places within the proposed regulation text. Defining the term is necessary to provide clarity to Division of Juvenile Justice staff concerning what constitutes a victim.

**New Subsection 4900 (b) (44) (A-C) are adopted** to define “Violation Levels as (A) Level 1: Minor violations of parole for which detention may not be warranted; (B) Level 2: Selected minor law violations, moderate technical violations, or repetitive Level 1 behavior for which detention may not be warranted; and (C) Level 3: Any behavior that the Division of Juvenile Parole Operations believes represents a risk or threat to public safety. Level 3 violations are mandatory referrals to the Juvenile Parole Board.” The L.H. Stipulated Permanent Injunction speaks to 3 levels of parole violations and allows violations of Level I or II to be resolved without the Juvenile Parole Board approval. However, Level 3 violations must be referred to the Juvenile Parole Board. The Division of Juvenile Justice believes that the criteria for each violation level is appropriately defined and is necessary to establish each violation level and comply with the L.H. Stipulated Permanent Injunction. Defining the different levels will also provide clarity to Division of Juvenile Justice staff and parolees.

**New Subsection 4900 (b) (45) is adopted** to define “Willful Program Failure as repeated and intentional refusal to attend and/or participate in a treatment and training program. The repeated refusal shall be documented by treatment staff. Staff shall specify the dates of non-participation and shall include information demonstrating that the parole violator does not have a mental or physical impairment that prevents him/her from fully participating in the program. A parole violator shall not be charged with willful program failure when program unavailability, facility lockdown, instructor absence or other circumstances beyond the parole violator’s control prevent him/her from completing the program prior to the expiration of his/her revocation term.” The L.H. Stipulated Permanent Injunction specifies that the parolee’s revocation period may not be extended beyond one year except in circumstances of willful program failure or serious in-custody misconduct. Although the L.H. Stipulated Permanent Injunction does not provide a definition or criteria for willful program failure, the Division of Juvenile Justice believes that the definition and criteria set forth in this new subsection is consistent with the intent of the L.H. Stipulated Permanent Injunction. Adoption of this subsection is necessary to establish and provide clarity to Division of Juvenile Justice staff and parolees concerning the scope of what constitutes willful program failure.

**Existing Subsection 4900 (c) is repealed.** This provision pertains to timelines and schedules during community crisis or emergencies and is now obsolete.

**Existing Subsection 4925 is amended** to change “ward” to “youth” to comply with Section 224.70(e) of the W&I Code, add “Juvenile Parole” in front of Board” to clarify which Board, “Full Board En Banc, a Full Board Panel, and Board Panel” have been capitalized, “Youth Authority” is replaced with “Division of Juvenile Justice” to comply with Section 1703(c) of the W&I Code, and ), “initial hearings for Categories 4 and 5 (Sections 4956-4957)” “and all Disciplinary Decision Making System (DDMS) matters for all categories (Sections 4951 through 4957)” are repealed as these sections no longer apply to the revocation process.

**Existing Subsection 4926 (a) is amended** to capitalize “Full Board En Banc, a Full Board Panel, and Board Panel,” delete the word “quorum” and replace with “Juvenile Parole Board members present,” change the word “concur” and replace with “agree.” to be consistent with current Division of Juvenile Justice practices.

**Existing Subsection 4926 (b) is amended** to add “Juvenile Parole” in front of Board Order to identify which board, delete the words “The ward” and replace with “Youth/parolees/parole violators” to comply with section 224.70(e) of the W&I Code and Section 4004 (o) California Code of Regulations.

**Existing Section 4927 Ward Appearance and Voice Recording of Hearings is amended** to delete the word “Ward” and replace with “Parolee” to be consistent with section 224.70(e) of the W&I Code and Title 15, Section 4004 (o) of the California Code of Regulations, and delete the word “Voice” and replace with the word “Audio” to be consistent with current Division of Juvenile Justice practices.

**Existing Subsection 4927 (a) is amended** to add “All” and “with the exception of Probable Cause Hearings and Exit Interviews” to the first sentence to clarify which proceedings will be recorded. The L.H. Stipulated Permanent Injunction requires that parole revocation hearings be appropriately recorded with the exception of probable cause hearings which may not be recorded. The Division of Juvenile Justice also believes that it is not necessary to record the Exit Interview. Therefore, it is necessary to amend this text to comply with L.H. Stipulated Permanent Injunction and to be consistent with the current Division of Juvenile Justice practices. In addition, the phrase “voice recorded on tape” is replaced with “audio recorded” to be consistent with current Division of Juvenile Justice practices, the word “ward” is replaced with “youth/parolee/parole violator” to be consistent with section 224.70(e) of the W&I Code and Title 15, Section 4004 (o) of the California Code of Regulations, “Annual reviews for wards on parole, annual and/or progress reviews for Youth Authority Wards housed at or committed to any non-Youth Authority facility need not be appearance hearings” is deleted as this language is obsolete and is not consistent with current Division of Juvenile Justice practices, “and with the ward’s consent” is replaced with “his/her attorney, and with the youth’s consent” and “who is” is replaced with “else” for better clarity in the second sentence.

**Existing Subsection 4927 (b) is amended** to replace the word “ward” with the word “parolee” to be consistent with section 224.70(e) of the W&I Code Title 15, Section 4004 (o) of the California Code of Regulations; also to replace “Youth Authority” with “Division of Juvenile Justice (DJJ)” to comply with Section 1703(c) of the W&I Code, add “with the,” change “except” to “exception of,” and delete “for those wards” for better clarity.

**Existing Subsection 4927 (b)(1) is amended** to add “Youth” to the beginning of the sentence for clarity and replace “Youth Authority” with the “Division of Juvenile Justice” to be consistent with section 1703(c) of the W&I Code.

**Subsection 4927 (b) (2) is amended** to add “Youth” to the beginning of the sentence for clarity and replace “Youth Authority” with “Division of Juvenile Justice” to comply with Section 1703(c) of the W&I Code.

**New Subsection 4927 (b) (3) is adopted** to read “Annual and/or progress reviews for youth on parole.” These types of reviews do not require a youth on parole to attend. Currently, the regulations do not include provisions for these types of reviews. Adoption of this subsection is to establish this criterion and is consistent with current Division of Juvenile Justice practices.

**New Subsection 4927 (c) is adopted** to read “Subsection (b) does not apply to revocation proceedings.” Parolees are required to attend all revocation proceedings. Currently, the regulations do not include provisions for this requirement. This subsection is necessary to ensure that parolees are clear about which proceedings they must attend.

**Existing Subsection 4928 (a) is amended** to add “Juvenile Parole” in front of Board” to clarify which Board, to capitalize “Full Board En Banc, a Full Board Panel, and Board Panel,” and to replace “Chairperson” with “Executive Officer or his/her designee” to be consistent with current Division of Juvenile Justice practices.

**Existing Subsection 4928 (b) is amended** to capitalize “Full Board En Banc” and add “Juvenile Parole” in front of Board” to clarify which Board.

**Existing Section 4929 is amended** to add “Juvenile Parole” in front of Board” to clarify which Board, to add “Special” in front of “conditions” to clarify that these are in addition to the normal conditions of parole, to add “as appropriate and deemed necessary by the Juvenile Parole Board” to clarify that the Juvenile Parole Board decides if special conditions of parole are appropriate, and replace “ward” with “parolee” to be consistent with section 224.70(e) of the W&I Code and Title 15, Section 4004 (o) of the California Code of Regulations.

**Existing Subsection 4929 (a) is amended** to replace “General” with “Notice of,” to add “DJJ 3.207 (REV 04/10)” and “incorporated by reference.” These revisions are necessary to correctly identify the name of this form and incorporate it by reference.

**Existing Subsection 4929 (a) (1) is amended** to replace “shall” with “must.” This is necessary for consistency.

**Existing Subsection 4929 (a) (2) is amended** to replace “shall” with “must” and to add the sentence “Conduct prohibited by law is considered a parole violation, even if you are not charged or convicted in court.” This is necessary for simplicity and clarity.

**Existing Subsection 4929 (a) (3) is amended** to replace “shall” with “must,” delete the section “approved placement or leave the State of California without permission of” and add the text “house/ placement without prior permission of,” to add the text, “You shall not avoid parole supervision.” This is necessary for clarity so that the parolee understands his limitations and accountability.

**Existing Subsection 4929 (a) (4) is amended** to replace “shall” with “must” and “evade parole supervision” with “leave the State of California without the written permission of your parole agent, and you are required to return to the State of California within the timeframe specified. Timeframes for processing any violations of parole will not begin until you return to the State of California.” This is necessary for clarity and to inform parolee of their restrictions and timeframes for processing any violations of parole.

**Existing Subsection 4929 (a) (5) is amended** to replace “shall not be a substantial danger to yourself or do anything which is a substantial danger to yourself or to the person or property of another” with “and your residence, and any other property under your control, may be searched with or without a warrant and with or without probable cause by a parole agent of the California Department of Corrections and Rehabilitation, a parole agent of the Juvenile Parole Board, and/or any peace officer at any time of day or night.” This is necessary so that the parolee understands

that his/her person, residence and any other property under his/her control may be searched with or without a warrant by a peace officer.

**Existing Subsection 4929 (a) (6) is amended** to replace “and your residence and any property under your control may be searched without a warrant by a parole agent of the Department of the Youth Authority, parole agent of the Youthful Offender Parole Board, or any peace officer,” with “must not own, possess, use, have under your control or have access to any deadly weapons, firearms (any kind of gun), knives (with blades longer than 2 inches) crossbow, explosive devices, tasers or ammunition.” This is necessary to clarify the types of weapons and devices a parolee shall not possess or have under his control.

**Existing Subsection 4929 (a) (7) is amended** to replace “may not use, possess, sell, or have under your control any firearm if you have a felony conviction.,” with “must not own, use, possess, or have under your control or have access to any simulated weapons, which would cause a reasonable person to believe that you are in possession of a deadly weapon, firearm, knife, explosive device or ammunition (i.e. toy guns, BB guns, Air Soft guns, plastic guns or knives, etc.).” This is necessary to clarify the specific types of guns the parolee should not have in possession or under his/her control.

**Existing Subsection 4929 (a) (8) is amended** to replace “shall abstain from the use of alcoholic liquor or beverages if you have been convicted of any of the offenses listed in Section 290 of the Penal Code,” with “must report all arrests/citations to your parole agent or his/her designee within one business day of such contact.” This is necessary so that the parolee understands all law contacts must be reported to his/her parole agent.

**New Subsection 4929(a) (9) is adopted** to read “You must report all arrests/citations to your Parole Agent or his/her designee within one business day of such contact.” The Division of Juvenile Justice believes that reporting all arrests/citations should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must report all arrests/citations to his/her parole agent within one business day.

**New Subsection 4929(a) (10) is adopted** to read “You must not be in the United States illegally.” The Division of Juvenile Justice believes that this should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must not be in the United States illegally and is consistent with current immigration laws.

**New Subsection 4929(a) (11) is adopted** to read “You must provide proof of employment, education or vocational training, or proof of actively seeking such activity.” The Division of Juvenile Justice believes that this should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must provide proof of employment, education or vocational training, or proof of actively seeking such activity.

**New Subsection 4929(a) (12) is adopted** to read “You must not own, use, possess, sell, have under your control or access to, any controlled substance, dangerous drug, narcotic, including marijuana, or other mind altering substance without a valid prescription from a licensed physician.” The Division of Juvenile Justice believes that this should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must not own, use, possess, sell, have

under your control or access to, any controlled substance, dangerous drug, narcotic, including marijuana, or other mind altering substance without a valid prescription from a licensed physician.

**New Subsection 4929(a) (13) is adopted** to read “You must not own, use, possess, sell, have under your control or access any drug paraphernalia (i.e. crack pipes, roach clips, bong, meth pipes, rolling papers, spoons, syringes).” The Division of Juvenile Justice believes that this should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must not own, use, possess, sell, have under your control or access any drug paraphernalia (i.e. crack pipes, roach clips, bong, meth pipes, rolling papers, spoons, syringes).

**New Subsection 4929(a) (14) is adopted** to read “You must submit to drug testing for illegal drugs, prescription drugs, and/or alcohol as directed by your Parole Agent.” The Division of Juvenile Justice believes that this should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must submit to drug testing for illegal drugs, prescription drugs, and/or alcohol as directed by your Parole Agent.

**New Subsection 4929(a) (15) is adopted** to read “You must not loiter in areas in which known drug sale activities are occurring.” The Division of Juvenile Justice believes that this should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must not loiter in areas in which known drug sale activities are occurring.

**New Subsection 4929(a) (16) is adopted** to read “You must pay in full any restitution fine or restitution order imposed by the court as a result of your commitment. Payment shall be in installments set in an amount consistent with your ability to pay as defined by WIC 1766.1.” The Division of Juvenile Justice believes that this should be included in the conditions of parole. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the parolee must pay, in full, any restitution fine or restitution order imposed by the court as a result of his/her commitment and that payment shall be in installments set in an amount consistent with his/her ability to pay as defined by WIC 1766.1.

**New Subsection 4929(a) (17) is adopted** to read “You must sign this agreement containing the conditions of parole or your parole will be rescinded/revoked.” This is necessary so that the parolee understands he/she must sign this agreement containing the conditions of parole or parole will be rescinded/revoked.

**Existing Subsection 4929(b) is amended** to add “Juvenile Parole” in front of Board to identify which Board, replace “the” with “an” and “ward” with “parolee” to be consistent with section 224.70(e) of the W&I Code and Title 15, Section 4004 (o) of the California Code of Regulations, to add the text “/current violation, or future criminality broadly defined to take into account the youth’s entire social history.” and to delete “or documented behavior.” This is necessary to clarify the basis by which the Board may prescribe special conditions of parole.

**Existing Section 4935 is amended** to add “Juvenile Parole” in front of Board to identify which Board, to change “Chairman” to “Executive Officer or his/her designee” as “Chairman” is no longer applicable, to replace “ward” with “youth” per 224.70 (e) of the W&I code and to comply with Title 15, Section 4004 (o) of the California Code of Regulations, an Appeal Form, DJJ 1.316 (Rev 10/07) for appealing non-revocation related issues or an Appeal of Parole Revocation

Decisions, DJJ 3.290 (NEW 10/09) for revocation related issues, both incorporated by reference, to replace “forms” with “an Appeal Form, DJJ 1.316 (Rev 10/07) for appealing non-revocation related issues or an Appeal of Parole Revocation Decisions, DJJ 3.290 (NEW 10/09) for revocation related issues, both incorporated by reference,” to identify the specific form to be completed for each appeal, to add “in which an appeal may be filed as” for clarity, and delete “for good cause,” as this text is not needed.

**Existing Subsection 4936 (a) is amended** to replace “Board was contrary to law” with “Juvenile Parole Board was based on a mistake of law.” These revisions are necessary for better clarity.

**Existing Subsection 4936 (b) is amended** to replace “There is relevant information which was not available at the time of the hearing.” with “The decision of the Juvenile Parole Board was based on a mistake of fact.” This revision is necessary for better clarity.

**Existing Subsection 4936 (c) is amended** to delete “The Board policy, which was the basis for the Board's actions regarding a ward, should be changed.” as this is no longer consistent with current Division of Juvenile Justice practices. and to add “The parolee was unable to understand the proceeding and/or provided ineffective assistance of counsel due to mental illness or other physical disability that was not adequately accommodated.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with effective communication and necessary, reasonable accommodations throughout the entire parole revocation process. These revisions are necessary to establish that if the parolee was not provided with effective communication and/or necessary, reasonable accommodations, the parolee can appeal the Juvenile Parole Board’s decision.

**Existing Subsection 4936 (d) is amended and renumbered new Subsection 4936 (g).** “Unusual” is replaced with “extraordinary” and “Juvenile Parole” is added in front of Board to identify which Board.

**New Subsection 4936 (d) is adopted** to read “The Juvenile Parole Board failed to provide an impartial hearing officer.” This is necessary to establish that in the event a parolee was not provided with an impartial hearing officer, the parolee can file an appeal.

**New Subsection 4936 (e) is adopted** to read “The decision of the Juvenile Parole Board was contrary to any of the provisions contained in Division 4.0, Chapter 4, Article 5 and Division 4.5 of Title 15, California Code of Regulations, and the outcome of the hearing would have been substantially different had the provisions been followed.” The Division of Juvenile Justice believes that this should be included in the criteria for appeals. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish this as criteria for an appeal.

**New Subsection 4936 (f) is adopted** to read “The audio recording of the hearing is inaudible.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with an audible copy of the audio recording of the hearing. If the recording is inaudible, the parolee is entitled to a new hearing through the appeal process. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish this as criteria for an appeal.

**Existing Subsection 4936 (d) is amended and renumbered new Subsection 4936 (g).** “unusual” is replaced with “extraordinary” and “Juvenile Parole” is added in front of Board to identify which Board. This is necessary for better clarity.

**Existing Section 4937. Appeal Body and Structure is amended** to delete the text “Body and Structure” from the section name and add an “s” to make “Appeal” plural and to delete “The following comprise the appeal bodies:” These revisions are necessary for better clarity.

**Existing Subsection 4937 (a) is amended and renumbered new Subsection 4937 (c) (1).** “Chairperson” is replaced with “Executive Officer or his/her designee” for consistency with current Division of Juvenile Justice naming conventions.

**New Subsection 4937 (a) is adopted** to read “All appeals will be decided by the Executive Officer or his/her designee.” The L.H. Stipulated Permanent Injunction requires appeals to be decided by an Executive Officer or his/her designee. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish all appeals will be decided by the Executive Officer or his/her designee to comply with the L.H. Stipulated Permanent Injunction.

**Existing Subsection 4937 (b) remains unchanged and is renumbered new Subsection 4937 (c) (2).**

**New Subsection 4937 (b) is adopted** to read “For appeals relating to the parole revocation and revocation extension proceedings, there is only one level of appeal.” The L.H. Stipulated Permanent Injunction provides for 1 level of appeal for revocation and revocation extension proceedings. Currently, the regulations do not include this provision. New language is necessary to distinguish between appeals for revocation and revocation extension proceedings versus all other proceedings and is consistent with the L.H. Stipulated Permanent Injunction.

**Existing Subsection 4937 (c) remains unchanged and is renumbered new Subsection 4937 (c) (3).**

**New Subsection 4937 (c) is adopted** to read “For appeals relating to all other proceedings:” Currently, the regulations do not include this provision. Therefore adoption of this subsection is necessary to establish that appeals not related to revocation and revocation extension proceedings have three (3) different levels of appeal.

**New Subsection 4937 (c) (1) is adopted.** Existing Subsections 4937 (a) is amended and renumbered new Subsection 4937 (c) (1). “Chairperson” is replaced with “Executive Officer or his/her designee” for consistency with current Division of Juvenile Justice naming conventions.

**New Subsection 4937 (c) (2) is adopted.** Existing Subsection 4937 (b) remains unchanged and is renumbered new Subsection 4937 (c) (2).

**New Subsection 4937 (c) (2) is adopted.** Existing Subsection 4937 (c) remains unchanged and is renumbered new Subsection 4937 (c) (3).

**Existing Subsection 4938 (a) is amended.** The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, Sections 4935 through 4940. The appeals process must include that a parolee must file his/her appeal with the Executive Officer of the Juvenile Parole Board within 20 business days of receipt of the written hearing decision. Currently, the regulations do not include this provision. Therefore, the following amendments to the existing

language are necessary for consistency and to comply with this requirement: “Appellants.” is deleted, “30” is replaced with “20 business,” “hearing for filing initial appeals by appellants” is deleted, “receipt of the written decision to file an appeal.” is added, and “Appeals from the decision of the Chairman or appeal panel shall be filed within ten days of receipt of the decision, and may be filed only when there is substantial new evidence not previously available to the board. The time limitations set forth in this section may, for good cause, be waived by the Chairmen.” is repealed. “No appeal shall be dismissed or denied merely because of technical defects.” is relocated and becomes new Subsection 4938 (c).

**Existing Subsection 4938 (b) is amended.** The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, Sections 4935 through 4940. The appeals process must include that the appeal will be decided by the Executive Officer or his/her designee within 10 business days of receipt of the appeal. Currently, the regulations do not include this provision. Therefore, the following amendments to the existing language are necessary for consistency and to comply with this requirement: “Appeal Body.” Is deleted, “Chairman” is replaced with “Executive Officer or his/her designee,” “(10) business” is added, and “An appeal panel or the full board en banc shall decide on the appeal within 30 days after receipt of the appeal.” is repealed

**Existing Subsection 4938 (c) is amended and renumbered new Subsection 4938 (f).** The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, Sections 4935 through 4940. The appeals process must include that a new hearing must be held within ten business days of the issuance of the appeal decision. Currently, the regulations do not include this provision. Therefore, the following amendments to the existing language are necessary for consistency and to comply with this requirement: “for appeals” is added, “30” is replaced with “ten (10) business” and “at any level of appeal.”

**New Subsection 4938 (c) is adopted** to read “No appeal shall be dismissed or denied because of technical defects.” This text is relocated from Subsection 4938 (a).

**New Subsection 4938 (d) is adopted** to read “The appeal decision shall be served on the youth/parolee/parole violator within five (5) business days of the appeal decision.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, Sections 4935 through 4940. Currently, the regulations do not include that the appeals process must include that the appeal decision must be served on the parolee within five business days of the decision. Therefore, adoption of this subsection is necessary to comply with this requirement.

**New Subsection 4938 (d) is adopted** to read “Appeals from the decision of the Executive Officer or his/her designee shall be filed within ten (10) business days of receipt of the decision, and may be filed only when there is substantial new evidence not previously available to the Juvenile Parole Board.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, Sections 4935 through 4940. The Division of Juvenile Justice believes ten business days to appeal the Juvenile Parole Board’s decision is consistent with the L.H. Stipulated

Permanent Injunction. Currently, the regulations do not include this provision. Therefore, it is necessary to adopt this subsection to establish this timeframe and the criteria in which a parolee can appeal the Juvenile Parole Board's decision.

**New Subsection 4938 (f) is adopted.** Existing Subsection 4938 (c) is amended and renumbered new Subsection 4938 (f). The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, Sections 4935 through 4940. The appeals process must include that a new hearing must be held within ten business days of the issuance of the appeal decision. Currently, the regulations do not include this provision. Therefore, the following amendments to the existing language are necessary for consistency and to comply with this requirement: "for appeals" is added, "30" is replaced with "ten (10) business" and "at any level of appeal" is deleted as there is only one level of appeal.

**Existing Section 4939 is amended** to add "for Non-Revocation Related" to the section title to establish the type of appeal actions and to delete "Body" as this word is not necessary.

**Existing Subsection 4939 (a) is amended** to change "Chairman" to "Executive Officer" as Chairman no longer applies and to add the text "or his/her designee" to establish that if the Executive Officer is not available, their designee can act on their behalf.

**Existing Subsection 4939 (a) (4) is amended** to add "The Executive Officer or his/her designee" to establish that if the Executive Officer is not available, his/her designee can act on their behalf. "Full board en banc" is now capitalized.

**Existing Subsection 4939 (a) (4) (A) and (B) are amended** to delete "He" as this word is no longer necessary, to capitalize "Determines" and "Full Board Panel" and to add "Juvenile Parole" to specify which board.

**Existing Subsection 4939 (b) is amended** to delete "Modifications by Chairman" as this text is not necessary, to change "Chairman" to "Executive Officer or his/her designee" as Chairman no longer applies and to establish that if the Executive Officer is not available, his/her designee can act on their behalf.

**New Section 4939.5 is adopted and is titled "Authorized Actions Relating to Parole Revocation Administrative Appeals."** This is necessary to explain the actions relating to Parole Revocation Administrative Appeals in accordance with Sections 1719, 1723, and 1725 of the Welfare and Institutions Codes, and in compliance with the L.H. Stipulated Permanent Injunction.

**New Subsection 4939.5 (a) is adopted** to read "The Executive Officer or his/her designee may take any one of the following actions:" Currently, the regulations do not include this provision. This is necessary to establish what actions the Executive Officer or his/her designee may take concerning an appeal in accordance with Sections 1719, 1723, and 1725 of the Welfare and Institutions Codes, and in compliance with the L.H. Stipulated Permanent Injunction.

**New Subsections 4939.5 (a) (1-3) are adopted** to read "(1) Deny the appeal, (2) Reverse the decision and grant appropriate relief, and (3) Grant a new hearing within ten (10) business days after the issuance of the Appeal Board Order, DJJ 1.311 (Rev 11/08) incorporated by reference. New hearings shall be conducted by a hearing officer other than the original hearing officer." The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate

regulations that clarify the appeals process applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, Sections 4935 through 4940. The appeals process must include that a new hearing must be held within ten business days of the issuance of the appeal decision. Currently, the regulations do not include these provisions. These subsections are in accordance with Sections 1719, 1723, and 1725 of the Welfare and Institutions Codes, and are necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4939.5 (b) is adopted** to read “If a new hearing is granted solely because the audio recording was inaudible, at the rehearing the Juvenile Parole Board shall not order a revocation term longer than the term imposed at the initial hearing.” The L.H. Stipulated Permanent Injunction specifies that if the audio recording is not audible, the parolee is entitled to a new hearing. The Division of Juvenile Justice believes that the proposed text is consistent with the L.H. Stipulated Permanent Injunction. Currently, the regulations do not include this provision. Therefore, adoption of this subsection is necessary to establish that the revocation term shall not be longer than the term imposed at the initial hearing.

**Existing Section 4940 is amended and re-titled “Board Orders.”**

**Existing Subsection 4940 (a) is amended** to change “appeal body” and “Chairman” to “Executive Officer or his/her designee” as these terms no longer apply, and to add “an Appeal” and “DJJ 1.311 (Rev 11/08), incorporated by reference” to identify which Board Order and identify the appropriate form number, and add “within five (5) business days from the date of decision” to be consistent with Subsection 4938 (d). In addition, in order for the Division of Juvenile Justice to utilize the Appeal Board Order, DJJ 1.311 (Rev 11/08) form, it must be adopted in the regulations and incorporated by reference.

**Existing Sections 4940 (b) (1) through (4) are repealed.** This is necessary as this language is no longer valid and requires adoption of new language to be consistent with current Division of Juvenile Justice practices and comply with the L.H. Stipulated Permanent Injunction. New language is adopted in subsection 4983 (b) (1) through (4).

**Existing Article 4 is amended and re-titled Actions in Facilities.** This is necessary as this section does not contain any text pertaining to special hearings and the word “institutions” is replaced by “facilities” for consistency as the term “institution” is no longer used.

**Existing Section 4961. remains unchanged.**

**New Section 4961.1 is adopted and titled “In-Custody Misconduct for Parole Violators.”** This is necessary for clarity as there are different procedures and timeframes pertaining to the revocation process when a youth is in custody versus when a youth is not-in-custody.

**New Subsection 4961.1 (a) is adopted** to read “Disciplinary Decision Making System as set forth in Sections 4630 through 4654 applies to parole violators where the sanctions imposed do not extend a parole violator’s confinement or Revocation Release Date.” The L.H. Stipulated Permanent Injunction specifies that the parolee’s revocation period may not be extended beyond one year except in circumstances of willful program failure or serious in-custody misconduct. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection to clarify which sanctions can be imposed on a parole violator that is in custody.

**New Subsection 4961.1 (b) is adopted** to read “Any recommendation for an extension of the Revocation Release Date shall be referred to the Juvenile Parole Board for revocation extension proceedings. Parole violators undergoing revocation extension proceedings shall be provided the rights and processes outlined in Sections 4853 and 4977(a).” The L. H. Stipulated Permanent Injunction provides that if a parolee commits a Serious In-Custody Misconduct or Willful Program Failure violation during revoked status, the parolee is subject to the revocation extension process. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4961.1 (c) is adopted** to read “Extensions of a parole violator’s Revocation Release Date shall not occur except where the Juvenile Parole Board finds by a preponderance of the evidence that a parole violator has committed Serious In-Custody Misconduct or Willful Program Failure as defined in Section 4900.” The L.H. Stipulated Permanent Injunction specifies that the parolee’s revocation period may not be extended beyond one year except in circumstances of Willful Program Failure or Serious In-Custody Misconduct. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4961.1 (d) is adopted** to read “Pending a District Attorney Referral. If Level 3 Serious In-Custody Misconduct has been referred to the District Attorney for prosecution and charges have been filed, a parole violator may conditionally accept the Revocation Extension Assessment and conditionally waive a Revocation Extension Hearing. He/she retains, however, the option to request a hearing once criminal proceedings are completed.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide a parole violator with a Revocation Extension Assessment prior to the Revocation Extension Probable Cause Hearing and allows for a parole violator to waive his/her Revocation Extension Hearing. The Division of Juvenile Justice believes that allowing a parole violator to conditionally accept the Revocation Extension Assessment and retain the parole violator’s option to request a hearing once criminal proceedings are completed is consistent with the L.H. Stipulated Permanent Injunction’s intent. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to establish these parameters and to comply with the L.H. Stipulated Permanent.

**New Subsection 4961.1 (d) (1) is adopted** to read “This type of waiver is referred to as an “optional waiver”. The L.H. Stipulated Permanent Injunction allows for a parole violator to waive his/her Revocation Extension Hearing. Currently, the regulations in Division 4.5 do not include this provision. Adoption of this subsection is necessary to define this type of waiver as an “optional waiver.”

**New Subsection 4961.1 (d) (2) is adopted** to read “In order for a parole violator to be eligible to optionally waive his/her Revocation Extension Hearing, criminal charges must have been filed with the District Attorney on the same behavior as the Level 3 Serious In-Custody Misconduct.” The L.H. Stipulated Permanent Injunction specifies that the parolee’s revocation period may not be extended beyond one year except in circumstances of Willful Program Failure or Serious In-Custody Misconduct. The L.H. Stipulated Permanent Injunction also allows for a parole violator to waive his/her Revocation Extension Hearing. The Division of Juvenile Justice believes the criteria, as proposed in this new subsection, is appropriate and consistent with the L.H. Stipulated Permanent Injunction’s intent. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to establish the type of behavior the parole violator must be charged with in order to file an optional waiver.

**New Subsection 4961.1 (d) (3) is adopted** to read “A hearing request must be received by the Juvenile Parole Board no later than 35 days before expiration of the revocation period as ordered by the Juvenile Parole Board.” The L.H. Stipulated Permanent Injunction does not provide a timeframe for a parole violator to request a hearing once criminal proceedings are completed. The Division of Juvenile Justice believes that the proposed timeframe is consistent with the intent of the L.H. Stipulated Permanent Injunction and will ensure the hearing is conducted in a timely manner. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to establish this timeframe and to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4961.1 (d) (4) is adopted** to read “Upon receipt of a hearing request, the Juvenile Parole Board shall schedule an Optional Waiver Review. At the hearing, the hearing officer may take any appropriate action not to exceed the Revocation Extension Assessment.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide a parole violator with a Revocation Extension Assessment prior to the Revocation Extension Probable Cause Hearing and allows for a parole violator to waive his/her Revocation Extension Hearing. The Division of Juvenile Justice believes that any action taken by the hearing officer should not exceed the Revocation Extension Assessment and is consistent with the intent of the L.H. Stipulated Permanent Injunction. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to establish these criteria.

**New Subsection 4961.1 (e) is adopted** to read “Dual Commitment Cases. The Division of Juvenile Parole Operations shall be responsible for revocation extension referrals for parole violators housed in institutions other than those operated by the Division of Juvenile Justice.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate procedures for dual commitments. The Division of Juvenile Justice believes it is appropriate that the Division of Juvenile Parole Operations be responsible for revocation extension referrals for parole violators housed in institutions other than those operated by the Division of Juvenile Justice. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction and establish who is responsible for dual jurisdiction cases if the parole violator is not housed in a Division of Juvenile Justice facility.

**Existing Section 4977 title is amended** to change “ward” to “parolee/parole violator” to comply Title 15, Section 4004 (o) of the California Code of Regulations. “A parolee who is scheduled for a probable cause, detention, violation, or disposition hearing shall be afforded the following rights:” is deleted as these terms are no longer used and new language consistent with the L.H. Stipulated Permanent Injunction and current Division of Juvenile Justice practices is proposed below.

**Existing Subsections 4977 (a) through (j) are repealed.** This is necessary as most of this language is no longer valid and new language consistent with the L.H. Stipulated Permanent Injunction and current Division of Juvenile Justice practices is proposed below.

**New Subsection 4977 (a) is adopted** to read “Parolees/parole violators detained in custody will have the following rights in revocation and revocation extension proceedings:” This is necessary to establish the rights of a parolee/parole violator in revocation and revocation extension proceedings.

**New Subsection 4977 (a) (1) is adopted** to read “To receive written notice of the rights outlined herein. For parole revocation cases, this notice of rights must be served on the parolee within

three (3) business days after the parole hold.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice inform a parolee/parole violator of his/her procedural and due process rights in parole revocation proceedings within three days after a parole hold. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (2) is adopted** to read “To receive written notice of the charges against him or her. For parole revocation cases, this notice of charges must be served on the parolee within three (3) business days after the parole hold.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice inform a parolee/parole violator of the charges against him/her within three days after a parole hold. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (3) is adopted** to read “To receive a copy of all evidence that will be used against the parolee/parole violator unless it is deemed confidential.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide a parolee/parole violator with a copy of all evidence that will be used against the parolee/parole violator unless it is deemed confidential. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (4) is adopted** to read “An attorney to represent the parolee/parole violator during the revocation and revocation extension process in accordance with Section 4979. A parolee/parole violator has the right to retain a private attorney or to be represented by his/her public defender.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide a parolee/parole violator with an attorney to represent the parolee/parole violator during the revocation and revocation extension process and provides a parolee/parole violator with the right to retain a private attorney or to be represented by his/her public defender. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (5) is adopted** to read “A Probable Cause Hearing.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide a parolee with a Probable Cause Hearing if the parolee is In-Custody. The Probable Cause Hearing is to determine if there is probable cause to believe that the parolee has violated a condition of parole, and if so, whether the parolee should be detained through the revocation process. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (5) (A) is adopted** to read “In the revocation process, this shall occur within 13 business days following the parole hold.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide a parolee with a Probable Cause Hearing within 13 days after a parole hold is placed. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (5) (B) is adopted** to read “In the revocation extension process this shall occur within 13 business days following service of the notice of rights to the parole violator.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide a parole violator facing a Revocation Extension Hearing with all of the same rights.

Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (5) (C) is adopted** to read “The parolee/parole violator has the right to request an expedited Probable Cause Hearing if there is evidence that shows he or she is completely innocent of the charges.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide a parolee/parole violator with an expedited Probable Cause Hearing if there is evidence that shows he or she is completely innocent of the charges. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (6) is adopted** to read “If the charges are not resolved at the Probable Cause Hearing, the parolee/parole violator will have a right to a Revocation or Revocation Extension Hearing.” The Probable Cause Hearing is to determine if there is probable cause to believe that the parolee has violated a condition of parole, and if so, whether the parolee should be detained through the revocation process. If there is no probable cause, the case is resolved and no further action is required. However, if probable cause is established, then the revocation process begins. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to establish that if the charges are not resolved at the Probable Cause Hearing, the parolee/parole violator will have a right to a Revocation or Revocation Extension Hearing to comply with the L. H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (6) (A) is adopted** to read “Revocation Hearings shall take place within 35 calendar days following a parole hold.” The L. H. Stipulated Permanent Injunction requires that all charges arising from conduct for which a parolee was taken into custody shall be adjudicated at the final revocation hearing within 35 calendar days from the placement of the parole hold absent good cause. The Division of Juvenile Justice agrees. Currently, the existing regulations do not provide a timeframe for adjudication of the final revocation hearing consistent with the L. H. Stipulated Permanent Injunction. Therefore, it is necessary to adopt this section in order to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (6) (B) is adopted** to read “Revocation Extension Hearings shall take place within 35 calendar days following the notice of rights to the parole violator.” The L.H. Stipulated Permanent Injunction allows the Division of Juvenile Justice to extend a parolee’s revocation period only after a Revocation Extension Hearing which shall take place before a Juvenile Parole Board Hearing Officer at the earliest practical time after the alleged conduct that is grounds for the charge. In addition, the L.H. Stipulated Permanent Injunction establishes a 35-day time frame if the alleged conduct occurs within 30 days of the parolee’s revocation release date. The Division of Juvenile Justice believes that a 35-day time frame is also reasonable in the above circumstances. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to establish this timeframe.

**New Subsection 4977 (a) (6) (C) is adopted** to read “He/she shall have the right to receive notice of the date and time of the hearing.” The Juvenile Parole Board sets the date and time of the hearing. The L. H. Stipulated Permanent Injunction requires that the parolee’s attorney be notified of the date and time of the hearing at the time counsel is appointed. The Division of Juvenile Justice believes the parolee should be afforded the same notification. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection to ensure the parolee is notified of the hearing date and time.

**New Subsection 4977 (a) (7) is adopted** to read “To be heard in person and to present witnesses and documentary evidence in his/her defense at a Revocation or Revocation Extension Hearing.” The L. H. Stipulated Permanent Injunction requires that all charges arising from conduct for which a parolee was taken into custody shall be adjudicated at the final revocation hearing within 35 calendar days from the placement of the parole hold absent good cause and that this hearing shall be a live, person-to-person, face-to-face hearing. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection in order to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (7) (A) is adopted** to read “For Parole Revocation Hearings, the parolee shall have the right to subpoena witnesses and present evidence to the same extent and on the same terms as the Division of Juvenile Justice, including the right to question live witnesses through his/her attorney.” The L. H. Stipulated Permanent Injunction requires that the parolee have the right to subpoena witnesses and present evidence to the same extent and on the same terms as the Division of Juvenile Justice, including the right to question live witnesses through his/her attorney. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection in order to comply with the L.H. Stipulated Permanent Injunction.

**New Subsection 4977 (a) (7) (B) is adopted** to read “For Revocation Extension Hearings, the right to call witnesses and present documentary evidence is limited by institutional safety and correctional goals.” The L. H. Stipulated Permanent Injunction requires that the parolee have the right to subpoena witnesses and present evidence to the same extent and on the same terms as the Division of Juvenile Justice, including the right to question live witnesses through his/her attorney. However, the Division of Juvenile Justice must still provide safety and security of the facility while providing the parolee with the above rights. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection in order to provide the Division of Juvenile Justice with the ability to maintain facility safety and security.

**New Subsection 4977 (a) (8) is adopted** to read “To accommodations and assistance sufficient to ensure equal access to and effective communication during the revocation/revocation extension process as outlined in Section 4977.6.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide parolees with necessary, reasonable accommodations and effective communication during the revocation/revocation extension process. Therefore, it is necessary to adopt this subsection to establish these rights.

**New Subsection 4977 (a) (9) is adopted** to read “To a neutral and detached hearing officer.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process and rights applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations. The Division of Juvenile Justice believes that establishing that the hearing officer be neutral and detached will ensure that the parolee receives a fair and just hearing. Therefore, it is necessary to establish this subsection to establish this as a right of the parolee.

**New Subsection 4977 (a) (10) is adopted** to read “To a written decision by the hearing officer addressing the evidence relied on and the reasons for the decision.” The L.H. Stipulated Permanent Injunction requires that the parolee shall receive a written decision at the conclusion of the hearing. The Division of Juvenile Justice believes that including addressing the evidence relied on and reasons for the decision is in keeping with the L.H. Stipulated Permanent Injunction’s intent. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection to establish these as rights of the parolee.

**New Subsection 4977 (a) (11) is adopted** to read “To receive an audible audio recording of the Revocation or Revocation Extension Hearing within ten (10) business days from the date the Juvenile Parole Board receives a written request for the recording.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with an audible copy of the audio recording of the hearing within 10 days of a written request. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection to establish this as a right of the parolee.

**New Subsection 4977 (a) (12) is adopted** to read “To file an appeal with the assistance of an attorney within 20 business days of receipt of the written hearing decision.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to promulgate regulations that clarify the appeals process and rights applicable to revocation proceedings, including modifications to procedures currently set forth in Title 15, California Code of Regulations, including the right of a parolee to file an appeal within 20 days of receipt of a written decision. Currently, the regulations in Division 4.5 do not include this provision. Therefore, it is necessary to adopt this subsection to establish this as a right of the parolee.

**New Section 4977.5 is adopted and titled Not-In-Custody Hearings.** This is necessary to establish the rights of a parolee who is not detained in custody on a DJJ parole hold while undergoing revocation proceedings in accordance with due process rights as outlined in the L. H. Stipulated Permanent Injunction including notice, evidence, attorney appointment, timeliness, witnesses, effective communication, neutral and detached adjudicator, written decision, audio recording, and appeals.

**New Subsection 4977.5 (a) is adopted** to read “A parolee who is not detained in custody on a Division of Juvenile Justice parole hold while undergoing revocation proceedings is considered to be a Not-In-Custody status case.” Adoption of this subsection is necessary to define what constitutes a parolee Not-In-Custody.

**New Subsection 4977.5 (b) is adopted** to read “A parolee charged with a violation of parole who is Not-In-Custody has the following rights:” The L. H. Stipulated Permanent Injunction specifies that Not-In-Custody parolees shall receive due process and ADA protections during the revocation process, including but not limited to, the appointment of counsel and a timely revocation hearing, to be held no later than 60 days after service of the notice of charges. Therefore, adoption of subsections 4977.5 (b) (1-11) is necessary to establish these rights and the exceptions which are explained in the appropriate subsections below.

**New Subsection 4977.5 (b) (1) is adopted** to read “To receive written notice of the rights outlined herein within ten (10) business days after the date of discovery.”

**New Subsection 4977.5 (b) (2) is adopted** to read “To receive written notice of the charges against him/her within ten (10) business days after the date of discovery.”

**New Subsection 4977.5 (b) (3) is adopted** to read “To receive a copy of all evidence that will be used against the parolee unless it is deemed confidential.”

**New Subsection 4977.5 (b) (4) is adopted** to read “An attorney to represent the parolee during the revocation process in accordance with Section 4979. A parolee has the right to retain a private attorney or to be represented by his/her public defender.”

**New Subsection 4977.5 (b) (5) is adopted** to read “A Revocation Hearing that shall take place within 60 calendar days after the parolee has been served with the notice of rights and charges.” The L. H. Stipulated Permanent Injunction specifies that Not-In-Custody parolees will be entitled to the same rights as In-Custody parolees with the exception that the hearing will take place within 60 days instead of 35 days as prescribed for In-Custody parolees.

**New Subsection 4977.5 (b) (6) is adopted** to read “To be heard in person and to present witnesses and documentary evidence in his/her defense at the Revocation Hearing.”

**New Subsection 4977.5 (b) (7) is adopted** to read “To accommodations and assistance sufficient to ensure equal access to and effective communication during the revocation process as outlined in Section 4977.6.” parolees with necessary, reasonable accommodations and effective communication during the revocation/revocation extension process including

**New Subsection 4977.5 (b) (8) is adopted** to read “To a neutral and detached hearing officer.”

**New Subsection 4977.5 (b) (9) is adopted** to read “To a written decision by the hearing officer addressing the evidence relied upon and the reasons for the decision.”

**New Subsection 4977.5 (b) (10) is adopted** to read “To receive an audible audio recording of the Revocation Hearing within ten (10) business days of Juvenile Parole Board’s receipt of a written request.”

**New Subsection 4977.5 (b) (11) is adopted** to read “To file an appeal with the assistance of an attorney within 20 business days of receipt of the written hearing decision.”

**New Subsection 4977.5 (c) is adopted** to read “A parolee charged with a violation of parole who is not in custody does not have the right to a Probable Cause Hearing.” The Probable Cause Hearing is for In-Custody parolees only and establishes whether or not there is probable cause to continue to detain the parolee until the Revocation Hearing takes place. Therefore, it is necessary to adopt this subsection to establish that this is not a right of a parolee that is not in custody.

**New Section 4977.6 is adopted and titled Accommodations and Assistance For Parolees/Parole Violators with Disabilities and/or Effective Communication Needs.**

**New Section 4977.6 (a) (1) through (8) are adopted.** The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice provide parolees with necessary, reasonable accommodations and effective communication during the revocation/revocation extension process including, but not limited to, sign language interpreters, language interpreters, magnification devices, assistive listening devices, and simplified forms. Therefore, it is necessary to adopt this subsection to establish the rights to accommodations and assistance for parolees and parole violators with disabilities and effective communication needs during Revocation and Revocation Extension proceedings to ensure meaningful participation.

**New Section 4977.7 is adopted and titled Remedies for Late Hearings in the Parole Revocation Process.** The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish what circumstances may constitute good cause for delayed hearings and remedies for untimely hearings. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this new section is necessary to establish what circumstances may constitute good cause for delayed hearings and remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (a) is adopted** to read “Any reduction for timeframe violations that a parolee is entitled to as explained below shall not affect the hearing officer’s determination of the appropriate case disposition.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish what circumstances may constitute good cause for delayed hearings and remedies for untimely hearings. The Division of Juvenile Justice does not believe that a delayed hearing should alter the outcome of the hearing officer’s final decision concerning case disposition. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish that determination of case disposition is a separate consideration from a remedy for untimely hearing in the parole revocation process.

**New Subsection 4977.7 (b) is adopted** to read “Late Probable Cause Hearing Remedy.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. Therefore, adoption of this new subsection is necessary to establish what circumstances may constitute good cause for delayed hearings and remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (b) (1) is adopted** to read “If the Probable Cause Hearing for an In-Custody parolee occurs after the 13<sup>th</sup> business day but before the 35<sup>th</sup> calendar day following placement of the parole hold without a showing of good cause, the remedy shall be a hearing to be held at the earliest possible date.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (b) (2) is adopted** to read “If the Probable Cause Hearing for an In-Custody parolee occurs after the 35<sup>th</sup> calendar day following placement of the parole hold without a showing of good cause, the parolee shall be entitled to a reduction in his/her return to custody by one day for every day the Probable Cause Hearing occurs beyond the 35<sup>th</sup> calendar day.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (c) is adopted** to read “Late Revocation Hearing Remedy.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. Therefore, adoption of this new subsection is necessary to establish what circumstances may constitute good cause for delayed hearings and remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (c) (1) is adopted** to read “If the Revocation Hearing for an in-custody parolee occurs after the 35<sup>th</sup> calendar day following placement of the parole hold without a

showing of good cause, the parolee shall be entitled to a reduction in his/her return to custody by one day for every day the Revocation Hearing is late.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (c) (2) is adopted** to read “If the Revocation Hearing for an In-Custody parolee occurs after 90 calendar days following the placement of a parole hold without a showing of good cause, prejudice shall be presumed, the case shall be dismissed, the Division of Juvenile Justice parole hold must be withdrawn and, assuming there are no other holds, the parolee released as soon as possible but no later than three (3) business days from the 91<sup>st</sup> day.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (d) is adopted** to read “Late Not-In-Custody Revocation Hearing Remedy.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. Therefore, adoption of this new subsection is necessary to establish remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (d) (1) is adopted** to read “If the Not-In-Custody Revocation Hearing occurs after the 60<sup>th</sup> calendar day following service to the parolee of the notice of charges without a showing of good cause, the remedy shall be a hearing unless the parolee can demonstrate actual prejudice as a result of the delay.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (e) is adopted** to read “Late Revocation Extension Hearing Remedy.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. Therefore, adoption of this new subsection is necessary to establish remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (e) (1) is adopted** to read “If the Revocation Extension Hearing occurs after the 35<sup>th</sup> calendar day following service to the parolee of the notice of charges with or without a showing of good cause, the hearing shall be held at the earliest possible date.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the

Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish what circumstances may constitute good cause for delayed hearings and remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (e) (2) is adopted** to read “For parole violators held beyond their Revocation Release Date due to pending revocation extension charges, if the Revocation Extension Hearing occurs after the 35<sup>th</sup> calendar day following the notice of charges without a showing of good cause, the parole violator shall be entitled to a reduction in his/her extension by one day for every day the Revocation Extension Hearing is late.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish what circumstances may constitute good cause for delayed hearings and remedies for late hearings in the parole revocation process.

**New Subsection 4977.7 (e) (3) is adopted** to read “For Parole Violators held beyond their Revocation Release Date, if the Revocation Extension Hearing does not occur within 90 calendar days following the notice of charges without a showing of good cause, prejudice shall be presumed, the case shall be dismissed, an Exit Interview shall be conducted, the Division of Juvenile Justice parole hold must be withdrawn and, assuming no other holds, the parole violator released as soon as possible but no later than three (3) business days from the 91<sup>st</sup> day.” The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to late hearings to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. The Division of Juvenile Justice believes this to be a fair remedy. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new subsection is necessary to establish what circumstances may constitute good cause for delayed hearings and remedies for late hearings in the parole revocation process.

**Existing Section 4978 is amended.** The L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the amended language below was agreed upon.

**Existing Subsection 4978 (a) is amended** to change “shall” to “may.” This is necessary to take away the definite requirement and leave the discretion to the Parole Agent or the Unit Supervisor.

**Existing Subsection 4978 (a) (1) is amended** to delete partial text “An immediate and significant” and add “Parolee is a” and delete the text “the person and property of another” and add the text “himself/herself” to establish concern for the parolees safety.

**Existing Subsection 4978 (a) (2) is amended** to delete partial text “An immediate and significant” and add “Parolee is a” and delete the text “himself/herself” and add the text “the person or property of another” to establish concern for the safety of others and their property.

**Existing Subsection 4978 (a) (3) is repealed and new text added** making a parolee's risk of absconding from parole supervision a possible criterion for detention.

**Existing Subsection 4978 (a) (4) is adopted to establish** that a parolee may be detained if his/her mental state has deteriorated to the point he/she is a threat to public safety to establish concern for the safety of others.

**Existing Subsection 4978 (b) (1) is amended** to change the language to clarify that the Juvenile Parole Board may detain a parolee upon determination that detention criteria has been met and probable cause of a parole violation exists.

**Existing Subsection 4978 (c) (1) is repealed and new text is adopted** to comply with the L. H. Stipulated Permanent Injunction which requires no later than 2 days after parole hold is placed, the Parole Agent and the Supervising Parole Agent will confer and determine whether there is probable cause to believe a condition of parole has been violated and whether the parolee meets detention criteria.

**Existing Subsection 4978 (c) (2) is repealed and new text adopted** to comply with L. H. Stipulated Permanent Injunction, and to establish that a parolee who is in custody and has been charged with a parole violation has a right to a Probable Cause Hearing within 13 business days of a DJJ-initiated parole hold.

**Existing Subsection 4978 (2) (A) is repealed and new text is adopted** to comply with the L. H. Stipulated Permanent Injunction and the right to a timely probable cause hearing to determine whether there is probable cause that a parolee violated a condition of parole.

**Existing Subsection 4978 (2) (B) is repealed and new text is adopted** to comply with the L. H. Stipulated Permanent Injunction and the right to a timely probable cause hearing to determine whether parolee should remain in custody pending the outcome of the revocation proceedings.

**Existing Subsection 4978 (3) is repealed and new text is adopted** to comply with the L. H. Stipulated Permanent Injunction to establish if criterion for detention is not met and no probable cause of a violation for conditions of parole exists, the Division of Juvenile Justice parole hold must be withdrawn and the parolee released as soon as possible, but no later than three (3) business days from the date of the hearing.

**Existing Subsection 4978 (3), (A), (B), (C) is repealed.** This is necessary as this language is no longer valid and requires adoption of new language to be consistent with current Division of Juvenile Justice practices and comply with the L. H. Stipulated Permanent Injunction.

**Existing Subsection 4978 (d) is adopted** to comply with the L. H. Stipulated Permanent Injunction and establish the process that applies to parolees when there are changes to conditions supporting detention.

**Existing Subsection 4978 (C) (1) through (3) will now become Subsection 4978 (d) (1) through (3).**

**Existing Subsection 4978 (d) (2) is amended** to delete "Member or Board Representative" because those terms are no longer used and to adopt the new terms being used "the Juvenile Parole Board" and "hearing officer".

**Existing Subsection 4978 (d) (3) is amended** to change “Youth Authority” to DJJ to comply with SB 737 which abolished CYA and renamed it CDCR, DJJ.

**Existing Subsection 4978 (g) is changed to (e)** in accordance with the previous letter (d). The text is amended to change Youth Authority to Division of Juvenile Justice (DJJ) to comply with SB 737 which abolished CYA and renamed it CDCR, DJJ.

**Existing Subsection 4978 (e) (1) is amended** to change the text for Youth Authority to Division of Juvenile Justice and to comply SB 737 which abolished CYA and renamed it CDCR, DJJ.

**Existing Subsection 4978 (e) (2) is amended** to add “revocation process” and delete “for hearings” to clarify the type of process.

**Existing Section 4979 is amended and re-titled Right to Legal Counsel.** The text “A parolee who is to appear before the Board for a probable cause/detention, violation, or disposition hearing, shall have the right to request the assistance of an attorney. The parolee may waive this right when such waiver is voluntary, and made knowingly, and intelligently. When the parolee is under 14 years of age, such waiver requires parental consent. Legal counsel representing wards at hearings shall be attorneys who have been admitted to the practice of law by the State of California. The granting of counsel is conditional and subject to criteria established by the Board.” is repealed. This is necessary as this language is no longer valid and requires adoption of new language to be consistent with current Division of Juvenile Justice practices and comply with the L. H. Stipulated Permanent Injunction. New language is adopted to read “The Juvenile Parole Board shall appoint counsel to represent all parolees and parole violators in the revocation and revocation extension processes.” The L.H. Stipulated Permanent Injunction requires that all parolees and parole violators in the revocation and revocation extension processes be appointed counsel by the Juvenile Parole Board. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new language is necessary to establish that all parolees and parole violators in the revocation and revocation extension processes be appointed counsel by the Juvenile Parole Board as a right of the parolee/parole violator.

**Existing Subsection 4979 (a) is amended.** “Timely Request for Counsel. A parolee shall make his/her request for counsel when the Board hearing coordinator advises him/her of his/her rights to due process while undergoing violation action. A request for counsel subsequent to that time will be considered only if it is determined that the parolee did not receive the opportunity or was unable to understand and/or exercise his/her right to request counsel.” is repealed. This is necessary as this language is no longer valid and requires adoption of new language to be consistent with current Division of Juvenile Justice practices and comply with the L.H. Stipulated Permanent Injunction. New language is adopted to read “Appointment of Attorneys.” The L.H. Stipulated Permanent Injunction requires that all parolees and parole violators in the revocation and revocation extension processes be appointed counsel by the Juvenile Parole Board. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new language is necessary to establish that all parolees and parole violators in the revocation and revocation extension processes be appointed counsel by the Juvenile Parole Board as a right of the parolee/parole violator.

**New Subsection 4979 (a) (1) is adopted** to read “For revocation proceedings, the Division of Juvenile Parole Operations shall notify a parolee’s counsel of record or public defender, who represented him/her for the committing court offense, of the imposition of a parole hold within four (4) business days after the hold.” The L.H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice develop a process for timely notifying a parolee’s counsel of record

or public defender of the imposition of a parole hold. The Division of Juvenile Justice believes the four day timeframe is consistent with the L.H. Stipulated Permanent Injunction. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new language is necessary to establish the procedures necessary for notifying counsel of the imposition of a parole hold.

**New Subsection 4979 (a) (2) is adopted** to read “An attorney will be appointed to represent a parolee/parole violator:” The L.H. Stipulated Permanent Injunction requires that all parolees and parole violators in the revocation and revocation extension processes be appointed counsel by the Juvenile Parole Board, and establishes guidelines regarding the right to counsel. The Division of Juvenile Justice believes the following criteria are consistent with the L.H. Stipulated Permanent Injunction. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this new language, along with its subsections (A), (B), and (C), is necessary to establish the conditions under which an attorney will be appointed to represent a parolee/parole violator.

**New Subsection 4979 (a) (2) (A) is adopted** to read “On or before the eighth (8<sup>th</sup>) business day following the parole hold for detained/in-custody parole revocation proceedings.” The L.H. Stipulated Permanent Injunction requires that counsel be appointed no later than eight (8) business days after imposition of a parole hold for parole revocation hearings. The Division of Juvenile Justice agrees. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new language is necessary in order to comply with the terms of the injunction.

**New Subsection 4979 (a) (2) (B) is adopted** to read “On or before the 21<sup>st</sup> business day following service of the Notice of Charges for Not-In-Custody parole revocation proceedings, or” The L.H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish policies and procedures that ensure that juvenile parolees who are not in custody receive due process and ADA protections during the Revocation Process, including the appointment of counsel and a timely revocation hearing, to be held “no later than 60 days after service of the Notice of Violation or similar document commencing the revocation process. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to right to counsel to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this new language is necessary to establish procedures for ensuring due process for not-in-custody parole revocation proceedings.

**New Subsection 4979 (a) (2) (C) is adopted** to read “On or before the eighth (8<sup>th</sup>) business day from the date of notice to the parole violator for revocation extension proceedings.” The L.H. Stipulated Permanent Injunction requires that a Juvenile Parolee who faces a Revocation Extension Hearing be represented by counsel at the hearing, and it directs the Division of Juvenile Justice to modify or rescind all regulations or policies or procedures that are inconsistent with the terms of this provision. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to right to counsel to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new language is necessary to establish procedures regarding the appointment of counsel at a revocation extension hearing.

**New Subsection 4979 (a) (3) is adopted** to read “A parolee/parole violator shall have the right to be represented by counsel during the administrative appeal of the Juvenile Parole Board’s revocation or revocation extension decision.” The L.H. Stipulated Permanent Injunction establishes that juvenile parolees have the right to assistance by counsel in preparing an administrative appeal and at any new hearing granted pursuant to an appeal. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new language is necessary to comply with the terms of the L.H. injunction.

**New Subsection 4979 (a) (4) is adopted** to read “A parolee/parole violator shall have the right to obtain counsel of his or her own choosing at his or her own cost. Such counsel shall have the same rights, except as to compensation, as to counsel appointed by the Juvenile Parole Board.” The L.H. Stipulated Permanent Injunction permits the parolee to decline representation by the Juvenile Parole Board appointed counsel in Revocation Proceedings and may instead be represented by counsel of his or her own choosing at his or her own cost, including his or her public defender or other appointed counsel, retained counsel, or pro bono counsel. Such counsel shall have the same rights under this Injunction, except as to compensation, as counsel appointed by the Juvenile Parole Board. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this new language is necessary to comply with the terms of the L.H. injunction.

**Existing Section 4980 is amended and re-titled Rules for Parole Violation Hearings.** The title change was made to provide a more specific heading to this section in light of its content. “Juvenile Parole” is added to clarify which board is responsible for establishing the rules for all hearings relating to parole violation proceedings.

**Existing Subsection 4980 (a) is repealed.** This language is no longer valid and new language is required to be consistent with current Division of Juvenile Justice practices and to comply with the L.H. Stipulated Permanent Injunction.

**Existing Section 4980 (b) is amended and renumbered (a).** “When a parolee is being held in custody, the” is added in front of hearings, “60” is replaced with “50” and “absent a waiver” is added after “occurred.” The L.H. Stipulated Permanent Injunction states that all parole revocation hearings shall be held within a 50-mile radius of the alleged violation. In addition, the L.H. Stipulated Permanent Injunction states that a juvenile parolee who wishes to waive the right to, or seek a continuance of, a timely probable cause hearing and/or a parole revocation hearing may elect to do so. Currently, the regulations in Division 4.5 do not include this provision. Therefore, amendment of the existing language is necessary to distinguish the in-custody procedures from the not-in-custody procedures, and to comply with the terms of the L.H. injunction regarding location of the hearing and waivers to the hearing.

**Existing Section 4980 (c) is amended and renumbered (b).** “When counsel is granted, he/she may be present at the hearing.” is deleted. The L.H. Stipulated Permanent Injunction requires that counsel be present to represent each and every Juvenile Parolee in the Revocation Process. This language is no longer valid and has therefore been deleted.

**Existing Section 4980 (d) is amended and renumbered (c).** The word “relative” is replaced by “relevant.” for better clarity.

**Existing Section 4980 (e) is amended and renumbered (d).** “Youth Authority” is replaced with “Division of Juvenile Justice” to comply with Section 1703(c) of the W&I Code and “finding of probable cause or a violation of law” is replaced with “conviction.” for better clarity.

**Existing Section 4980 (f) is renumbered (e).**

**Existing Section 4980 (g) is amended and renumbered (f).** “During Probable Cause Hearings,” is added. The L. H. Stipulated Permanent Injunction requires that the Division of Juvenile Justice establish remedies for untimely hearings. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. This is necessary to clarify what type of hearing to which this criterion applies.

**Existing Subsections 4980 (g) (1) and (2) are repealed.** The previous language stated that witnesses were encouraged to attend the hearings and provided instruction regarding the testimony of such witnesses. The L.H. Stipulated Permanent Injunction states that the juvenile parolee is not allowed to have witnesses, nor is the Division of Juvenile Justice required to have any witnesses at the Probable Cause Hearings. Therefore, repeal of the existing language is necessary, since the new Section 4980(f) is specific to Probable Cause Hearings.

**New Subsection 4980 (g) is adopted** to read “Parolees shall have the right to subpoena witnesses to appear at a Revocation Hearing. The parolee shall be advised of the witnesses that the Division of Juvenile Justice intends to subpoena. If a hearing officer determines based on objective factors that a witness is fearful and that face-to-face confrontation would result in significant emotional distress to the witness, that witness may testify outside of the presence of the parolee. The hearing officer shall allow the parolee’s counsel to cross examine the witness and a reasonable amount of time to consult with the parolee about the witness’s testimony.” The L.H. Stipulated Permanent Injunction states that the juvenile parolee, represented by counsel, has the right to present evidence, including through the testimony of live witnesses, and shall have the same right to subpoena witnesses and present evidence to the same extent and on the same terms as the Division of Juvenile Justice, including the right to question witnesses through their attorney. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this new language is necessary to establish this right and comply with the terms of the L.H. injunction.

**Existing Subsections 4980 (h) is repealed.** The L.H. Stipulated Permanent Injunction states that the juvenile parolee is not allowed to have witnesses, nor is the Division of Juvenile Justice required to have any witnesses at the Probable Cause Hearings. Therefore, repeal of the existing language is necessary, since the new Section 4980(f) is specific to Probable Cause Hearings.

**New Subsection 4980 (h) is adopted** to read “Evidence or documents not provided to the parolee’s counsel at least 48 hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice can show good cause for the delay.” The L.H. Stipulated Permanent Injunction states evidence or documents not provided to the parolee’s counsel at least 48 hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice can show good cause for the delay. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**Existing Subsections 4980 (i) is repealed.** The L.H. Stipulated Permanent Injunction states that the juvenile parolee is not allowed to have witnesses, nor is the Division of Juvenile Justice

required to have any witnesses at the Probable Cause Hearings. Therefore, repeal of the existing language is necessary, since the new Section 4980(f) is specific to Probable Cause Hearings.

**New Subsection 4980 (i) is adopted** to read “The use of hearsay evidence in a Revocation Hearing shall be limited by the parolee’s confrontation rights in the manner set forth in controlling legal authority.” The L.H. Stipulated Permanent Injunction states the use of hearsay evidence in a Revocation Hearing shall be limited by the parolee’s confrontation rights in the manner set forth in controlling legal authority. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to comply with the L.H. Stipulated Permanent Injunction.

**Existing Subsections 4980 (j) is repealed.** The L.H. Stipulated Permanent Injunction states that the juvenile parolee is not allowed to have witnesses, nor is the Division of Juvenile Justice required to have any witnesses at the Probable Cause Hearings. Therefore, repeal of the existing language is necessary, since the new Section 4980(f) is specific to Probable Cause Hearings. Does this apply to just Probable Cause.

**New Subsection 4980 (j) is adopted** to read “Any person, including the parolee, who disrupts a hearing, may be excluded from further participation by the hearing officer.” This language was taken from existing subsection 4980 (l) with no amendments.

**Existing Subsections 4980 (k) is repealed.** The L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, both parties agreed that this language was no longer valid and was inconsistent with guidelines and standards that comply with controlling legal authority. Therefore, it is necessary to repeal this language.

**New Subsection 4980 (k) is adopted** to read “The hearing officer is responsible for assuring that the parolee has had a full opportunity to present all relevant information in his/her own behalf.” This language was taken from existing subsection 4980 (m) with no amendments.

**Existing Subsections 4980 (l) is repealed.** This text is now located in subsection 4981 (j).

**New Subsection 4980 (l) is adopted** to read “The hearing officer shall record findings of specific violations with respect to the charges shown in the notice of charges. He/she shall record all orders made at the hearing.” This language was taken from existing subsection 4980 (n).

**Existing Subsections 4980 (m) is renumbered 4980 (k).**

**New Subsection 4980 (m) is adopted** to read “All Revocation and Extension Hearings shall be audio recorded and a written record will be made for the proceeding. The parolee shall be informed of his/her right to receive an audible copy of the audio recording of the hearing. Division of Juvenile Justice shall take necessary steps to ensure that such proceedings are appropriately recorded. Probable Cause Hearings/Optional Waiver Reviews may not be recorded.” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to provide parolees with an audible copy of the audio recording of the hearing. Probable Cause Hearings may not be recorded. The Division of Juvenile Justice shall take necessary steps to ensure that such proceedings are appropriately recorded. In addition, the L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. Currently, the regulations in Division 4.5 do not

include these provisions. Therefore, adoption of this new subsection is necessary to comply with the L. H. Stipulated Permanent Injunction.

**Existing Subsections 4980 (n) is amended and renumbered 4980 (l).** “Allegations” is replaced with “charges” and written notice” is replaced with “notice of charges.” for better clarity.

**Existing Section 4981 text is amended.** “A parolee undergoing court action has a right to a hearing before the Board when he has been detained by Youth Authority action. This hearing shall first be for the purpose of determining whether there is probable cause to believe he has substantially violated a law and thus a condition of parole. Probable cause requires a reasonable belief, based on reliable evidence, that a person has violated a law. The evidence must substantiate more than mere suspicion but need not amount to proof of guilt. Where probable cause is established the Board then determines whether or not detention should be continued.” is repealed and new language is adopted below. This is necessary as this language is no longer valid or is obsolete and has been replaced with new language that is consistent with the L.H. Stipulated Permanent Injunction.

**Existing Subsection 4981 (a) is amended and renumbered 4981 (b).**

**New Subsection 4981 (a) is adopted** to read “A parolee who is in custody while undergoing parole revocation proceedings initiated by Division of Juvenile Justice has a right to a Probable Cause Hearing before the Juvenile Parole Board. This hearing shall be conducted no later than 13 business days after imposition of a Division of Juvenile Justice parole hold. The Probable Cause Hearing has two (2) purposes:” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice provide a parolee with a Probable Cause Hearing within 13 days after a parole hold is placed. Currently, the regulations in Division 4.5 do not include these provisions. Therefore it is necessary to adopt this text to comply with L.H. Stipulated Permanent Injunction, and to specify that the Probable Cause Hearing has two (2) purposes which are defined in subsections 4981 (a) (1) and (2) below.”

**New Subsection 4981 (a) (1) is adopted** to read “To determine whether there is probable cause to believe the parolee has violated a law or condition of parole. Probable cause requires facts that would lead a person of ordinary caution and prudence to conscientiously entertain a strong suspicion that the alleged charge is true.” The Probable Cause Hearing, as defined in the L.H. Stipulated Permanent Injunction, is used to determine if there is probable cause to believe the parolee has violated a law or condition of parole and as defined in. Probable Cause is defined in new subsection 4900 (b) (29) as facts as would lead a person of ordinary caution and prudence to conscientiously entertain a strong suspicion that an alleged charge is true. Therefore, adoption of this subsection is necessary to elaborate on the purpose of the Probable Cause Hearing.

**New Subsection 4981 (a) (2) is adopted to read** “To determine, where probable cause is established the Juvenile Parole Board, whether the parolee should continue to be detained pending resolution of the alleged charges.” The Probable Cause Hearing, as defined in the L.H. Stipulated Permanent Injunction, is used to determine if there is probable cause to believe the parolee has violated a law or condition of parole and as defined in and if so, should the parolee continue to be detained pending resolution of the alleged charges. Probable Cause is defined in new subsection 4900 (b) (29) as facts as would lead a person of ordinary caution and prudence to conscientiously entertain a strong suspicion that an alleged charge is true. Therefore, adoption of this subsection is necessary to elaborate on the purpose of the Probable Cause Hearing.

**Existing Subsection 4981 (a) is amended and renumbered (b)** to add “for a law violation” and “in the case of a parolee” is deleted to clarify that this subsection establishes what constitutes probable cause for a law violation.

**Existing Subsection 4981 (a) (1) is amended and renumbered 4981 (b) (1)** to add “that,” delete “there is probable cause to believe” and add “her.” for better clarity.

**Existing Subsection 4981 (a) (2) is renumbered 4981 (b) (2).**

**Existing Subsection 4981 (b) is amended and renumbered 4981 (c)** to change “the criteria” to “a criterion” and add “as set forth in Section 4978.” for better clarity.

**Existing Subsection 4981 (c) is amended and renumbered 4981 (d)** to add “pending resolution of the charges,” to change “Youth Authority” to “Division of Juvenile Justice,” to delete “detention order shall be removed within 24 hours” and add “parole hold must be withdrawn and assuming there are no other holds, the parolee released as soon as possible, but no later than three (3) business days from the date of the hearing. If released, the parolee will have a Not-In-Custody Revocation Hearing. Regardless of whether the parolee is being held on other holds, timeframes for Not-In-Custody Revocation Hearings will apply.” The L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. This is necessary as this language is no longer valid and requires adoption of new language to comply with the L.H. Stipulated Permanent Injunction.

**Existing Subsection 4981 (d) is repealed.** This is necessary as this language is no longer valid and requires adoption of new language to be consistent with current Division of Juvenile Justice practices and comply with the L.H. Stipulated Permanent Injunction. New language is adopted in new Section 4983.5 pertaining to the parameters of waivers.

**Existing Subsection 4981 (e) (1) and (2) are repealed.** This is necessary as this language is no longer valid and requires adoption of new language to be consistent with current Division of Juvenile Justice practices and comply with the L.H. Stipulated Permanent Injunction. New language is adopted in Subsection 4983 (b).

**New Subsection 4981 (e) is adopted** to read “When a hearing officer dismisses the charges or orders that the parolee be continued on parole, the Division of Juvenile Justice parole hold must be withdrawn and, assuming there are no other holds, the parolee released as soon as possible, but no later than three (3) business days from the date of the hearing.” The L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. Currently, the regulations in Division 4.5 do not include this provision. Therefore, adoption of this subsection is necessary to establish this requirement.

**Existing Section 4982 is repealed and new Section 4982 is adopted.** This is necessary to define the categories and levels of parole violations and to establish that when DJPO believes the behavior of a parolee represents a risk or threat to public safety and they establish by the preponderance of evidence standard of proof that a violation of parole is met, the hearing officer shall decide whether it is more likely than not that the parolee did violate a condition of parole as alleged.

**Existing Section 4983 is repealed and new Section 4983 is adopted.** This is necessary as this language is no longer valid and requires adoption of new language to be consistent with current Division of Juvenile Justice practices and comply with the L.H. Stipulated Permanent Injunction. The L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the following language was agreed upon. The new language establishes that the Juvenile Parole Board shall document its findings and impose a disposition in all parole revocation proceedings and to provide a list of the dispositions that the Juvenile Parole Board may consider.

**New Subsection 4983 (a) is adopted** to read “The Juvenile Parole Board shall make a written order documenting its findings and imposing a disposition in all parole revocation proceedings. A copy of this written board order shall be provided to the parolee and to his/her attorney at the conclusion of the hearing.” The Division of Juvenile Justice believes it is appropriate to expect the Juvenile Parole Board to document its findings and impose a disposition in all parole revocation proceedings and a copy of this written board order shall be provided to the parolee and to his/her attorney at the conclusion of the hearing. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this subsection is necessary to establish this requirement.

**New Subsection 4983 (b) is adopted** to read “The dispositions that the Juvenile Parole Board may consider are:” The Division of Juvenile Justice believes the following dispositions are appropriate and consistent with the L.H. Stipulated Permanent Injunction. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of these subsections is necessary to establish the following dispositions:

**New Subsection 4983 (b) (1) is adopted** to read “Dismissal of the charges is warranted”

**New Subsection 4983 (b) (2) is adopted** to read “Continuing the parolee on parole”

**New Subsection 4983 (b) (3) is adopted** to read “Revoking parole and imposing a revocation term based upon the **Revocation or Revocation Extension Matrix, incorporated by reference**, established by the Juvenile Parole Board. Upon revocation, the hearing officer shall establish a Revocation Release Date.”

**New Subsection 4983 (b) (4) is adopted** to read “Granting the parolee’s request for an Optional Waiver”

**New Section 4983.5 is adopted and titled 4983.5 Optional Waiver.** The L. H. Stipulated Permanent Injunction provides the parolee with the option to waive, or seek a continuance of, a timely Probable Cause Hearing and/or Revocation Hearing only upon written consent after the parolee has met with his/her attorney and such writing is made in the presence of his/her attorney. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this section is necessary to establish and explain the Optional Waiver process for a parolee who is in custody and undergoing criminal prosecution for the same behavior that is grounds for an alleged violation and the entitlements of a parolee during the Optional Waiver period and when the DJJ parole hold will be dropped.

**New Subsection 4983.5 (a) is adopted** to read “A parolee, who is in custody and undergoing criminal prosecution for the same behavior that is grounds for an alleged violation, may conditionally waive a Revocation or Revocation Extension Hearing while still retaining the

option to request a hearing at a later date. Upon receipt of a signed request by the parolee in which he/she elects to optionally waive his/her Revocation or Revocation Extension Hearing, his/her parole will be revoked or extended for the time assessed by the Juvenile Parole Board based upon the established **Revocation or Revocation Extension Matrix, incorporated by reference.**” The L.H. Stipulated Permanent Injunction requires the Division of Juvenile Justice to develop a matrix of ranges of revocation terms for specific violation. The L.H. Stipulated Permanent Injunction permits the parolee to waive the right to, or seek a continuance of, a timely Probable Cause Hearing and/or Revocation Hearing and includes the Revocation Extension Hearing in the definition of Revocation Process or Proceedings. The Division of Juvenile Justice believes that this should also include Revocation Extension Hearings. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, it is necessary to adopt this subsection in order to comply with the L.H. Stipulated Permanent Injunction.

**New Section 4983.5 (b) is adopted** to read “A parolee may later request a Revocation or Revocation Extension Hearing prior to the end of the optional waiver period. He/she is entitled to no more than one activation of an optional waiver. A hearing request must be postmarked and received by the Juvenile Parole Board no later than 35 days before expiration of the optional waiver revocation period ordered by the Juvenile Parole Board.” The L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to submit all rules and regulations pertaining to the revocation process to the plaintiffs and Special Master for discussion and input. During these meet and confer sessions, the above language was agreed upon. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this subsection is necessary to establish that the parolee may request a Revocation or Revocation Extension Hearing prior to the end of the optional waiver period. In addition, this also establishes that the parolee is only allowed one waiver and it must be postmarked and received by the Juvenile Parole Board no later than 35 days before expiration of the optional waiver revocation period ordered by the Juvenile Parole Board.

**New Section 4983.5 (c) is adopted** to read “If a parolee is still undergoing criminal prosecution when the optional waiver revocation period ends, the Division of Juvenile Justice parole hold will be dropped. However, the parolee may remain in local custody pending the outcome of the criminal prosecution.” The L. H. Stipulated Permanent Injunction required the Division of Juvenile Justice to address dual commitments, where a parolee is held on a parole hold and on other charges, such as a criminal or juvenile proceeding concerning new charges, or on adult parole violation charges. The Division of Juvenile Justice believes the proposed language sufficiently addresses dual commitments and is consistent with the L. H. Stipulated Permanent Injunction. Currently, the regulations in Division 4.5 do not include these provisions. Therefore, adoption of this subsection is necessary to establish a process for dual commitments that complies with the L. H. Stipulated Permanent Injunction.

#### **REASONABLE ALTERNATIVES**

No other alternatives have been considered by the DJJ. The parole revocation process is governed by the L. H. Final Stipulated Order for Permanent Injunctive Relief and therefore, there are no alternatives to be considered.

#### **REASONABLE ALTERNATIVES HAVING A SIGNIFICANT ADVERSE IMPACT ON BUSINESS**

The DJJ has not identified any alternatives that would adversely affect the business community.

## IDENTIFICATION OF STUDY, REPORT, OR DOCUMENT RELIED UPON

- October 2008, United States District Court, *L.H. v. Schwarzenegger*, Case No. 2:06-CV-02042-LKK-GGH, Stipulated Order.
- December 1967, Court of Appeal, Second District, *People v. Mercedes Domingues*, 256 Cal.App.2d 623, 64 Cal.Rptr. 290
- June 1972, Supreme Court of the United States, *Morrissey v. Brewer*, 408 U.S. 471 (1972)
- May 1973, Supreme Court of the United States, *Gagnon v. Scarpelli*, 411, U.S. 778 (1973)
- November 1986, Court of appeal, Second District, Division 5, California, *Arlene Kimie Naito on Habeas Corpus* (1986) 186 Cal.App.3d 1656 (231 Cal.Rptr. 506)
- October 1975, Supreme Court of California, *People v. Howard Leonard Lent*, 15 Cal.3d 481, 541 P.2d 545, 124 Cal.Rptr. 905
- August 2000, Court of Appeal, First District, Division 1, California, *People v. James Edward King*, 82 Cal.App.4<sup>th</sup> 1363 (99 Cal.Rptr.2d 220)