

## **PROPOSED REGULATION TEXT**

### **TITLE 15, DIVISION 4, SUBCHAPTER 2, ARTICLE 2**

§ 4710. Definition and Possession of Contraband.

Each superintendent shall define contraband for his facility following the general guidelines that contraband is an item which, if possessed, could by its very nature be injurious to persons or property, would adversely affect program objectives or institutional security, or would require an inordinate amount of staff resources to keep secure or supervise. The definition shall include the legal definition as set forth by Division 10 (commencing with Section 11000) of the Health and Safety Code, Section 1001.5 of the Welfare and Institutions Code, and Section 4502 of the Penal Code. To enforce conformity with the rules governing contraband the superintendent shall:

(a) Post a notice which states that all visitors, staff, volunteers, and guests, including their property and vehicles entering the facility, are subject to being searched on either a regular or random basis.

(b) Post a notice which states that any person who knowingly brings in, or assists in bringing into the facility, any restricted dangerous drug, alcoholic beverage, firearm, weapon or explosive, shall be guilty of a felony.

(c) Ensure that notices are printed in both English and Spanish and be located in a conspicuous place at entrance and/or departure points of the institution or camp.

(d) Prohibit the entrance of contraband including weapons, firearms or explosives into the security area unless there is an extreme emergency.

(e) State and publish for wardsyouths, visitors, and staff the institution's definition and standards regarding contraband.

~~(f) (Reserved)~~

~~(g)~~(f) Prohibit wards-youths from receiving or possessing materials which fall into the following categories:

(1) Pictures depicting explicit sexual activity.

(2) Pictures and written material whose sale is prohibited to minors or which can be purchased only at an "adult only" bookstore in the community in which the institution is located.

(3) Material which cannot be legally sold and sent through the U .S. mail.

(4) Pictures which show the subject or his genitals in a state of sexual excitement.

(5) Sex oriented objects, devices or appliances.

(h) Restrict or regulate the display of sex-oriented pictures, which are not otherwise prohibited by this article, outside of a ward's-youth's locker or individual room.

(i) Permit wards'-youths' access to educational material on human sexuality under the direction of the program coordinator.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1001.5, 1002, 1004 and 1752, Welfare and Institutions Code; and Section 4502, Penal Code.

#### § 4711. Search for Contraband or Evidence.

Staff may search the person, premises, property, or room of a ward-youth for contraband or for evidence in the investigation of an incident.

(a) Searches shall be conducted:

(1) In a positive and non-demeaning manner.

(2) With the ward-youth present, when possible.

(3) By two staff members, if the search is non-routine or sensitive.

(b) Upon completion of a search:

(1) The ward's-youth's property shall be left in a neat and orderly condition.

(2) The ward-youth shall be given a receipt for any items removed during the search.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1001, 1001.5, 1002, 1004 and 1752, Welfare and Institutions Code; and Section 4502, Penal Code.

#### § 4712. Contraband Seizure and Disposal.

When contraband is withheld or confiscated from a wardyouth:

(a) The ward-youth shall be given a written notice within 48 hours covering the following:

(1) A description of the property withheld/confiscated, including the approximate value, if known.

(2) The reasons for withholding/confiscating the property and its intended disposal.

(3) The right to appeal either the decision to withhold/confiscate the property and/or the intended means of disposal.

(b) Withheld/confiscated property shall not be finally disposed of until the ward-youth has had the opportunity to exercise his right of appeal.

(c) The contraband shall be returned to its rightful or previous owner, mailed to the ward's-youth's home, stored and returned to the ward-youth upon release on parole, discarded, or turned over to law enforcement authorities, as appropriate.

~~(d) A separate trust account shall be established in the name of the ward for deposit of "contraband money," which is money which comes into his possession through violation of law or institution rules. An appropriate disposition shall be made of such money or it shall be returned to the ward upon his release on parole~~

(d) Any money that is confiscated from a youth housed in a DJJ facility that was obtained illegally and/or through a violation of DJJ policy shall not be deposited into the youths individual trust account. The money will be handled according to CDCR Asset Forfeiture Policy and/or processed through the DJJ DDMS process with confiscated monies deposited in the facility Ward Benefit Fund account. DJJ staff will complete a Youth Property Receipt, Form DJJ 4.744 (New 08/09)

(e) Money. Youths may not possess money. If a youth finds money and voluntarily surrenders it, and the rightful owner does not claim it within 30 days, it will be credited to the youth trust account.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1001, 1001.5, 1002, 1004 and 1752, Welfare and Institutions Code; and Section 4502 of the Penal Code.

#### § 4713. Skin Searches.

When there is reason to believe that a ward-youth has contraband concealed upon his person, he may be required to remove his clothing and submit to a skin search. Such searches shall be conducted with:

(a) Maximum concern for the ward's-youth's privacy and personal dignity.

(b) Only those staff required to conduct the search and to assure health and safety of the ward-youth shall be present.

(c) Only staff who are employed in peace officer classifications and who are of the same sex as the ward-youth or who are licensed medical personnel, shall be present or participate in a skin search.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1001, 1001.5, 1002, 1004 and 1752, Welfare and Institutions Code; and Section 4502, Penal Code.

§ 4714. Rectal/Vaginal Searches.

When there is probable cause that a ~~ward~~-youth has concealed contraband in the rectal/vaginal cavity, a rectal/vaginal search may be conducted. Such searches shall be conducted under the following conditions:

- (a) When administered in a medically approved manner.
- (b) With maximum concern for the ~~ward's~~-youth's dignity and privacy.
- (c) Performed only by licensed medical personnel.
- (d) With only persons of the same sex who are employed in peace officer classifications and/or licensed medical personnel present during the search.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1001, 1001.5, 1002, 1004 and 1752, Welfare and Institutions Code; and Section 4502, Penal Code.