



Department of Corrections and
Rehabilitation

NOTICE OF CHANGE TO REGULATIONS

Sections: 3000, 3030, 3190, and 3269

Number:

17-03

Publication Date:

April 28, 2017

Effective Date:

April 28, 2017

INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces amendments to Sections 3000, 3030, 3190, and 3269 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR, provisions concerning authorized property for transgender inmates.

IMPLEMENTATION: TO BE ANNOUNCED.

These regulations are in temporary emergency effect pending completion of the public comment period and final certification of adoption per Penal Code Section 5058.3.

PUBLIC COMMENT PERIOD

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation, Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, by fax to (916) 324-6075, or by email to RPMB@cdcr.ca.gov. All written comments must be received by the close of the public comment period on **June 19, 2017, at 5:00 p.m.**

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held on **June 19, 2017, from 2:00 p.m. to 3:00 p.m. in the Kern/Colorado Room, located at 1515 S Street, North Building, Sacramento, CA 95811.** The purpose of the hearing is to receive oral comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period have the same significance and influence as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

POSTING

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each department facility and field office. Also, facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies and shall distribute it to inmate law libraries and advisory councils. Certification should be provided by the institution's Rules Coordinator and returned to RPMB on a CDCR Form 621-A, Certificate of Posting, by e-mail or by FAX. See Department Operations Manual 12010.12.1 and 12010.12.2 for posting and certification of posting procedures.

CONTACT PERSON

Inquiries regarding this notice should be directed to Timothy M. Lockwood, Chief, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2269 or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations may be directed to Daniel Ross, Correctional Captain, Division of Adult Institutions, at (916) 324-6808.

Original signed by:

KENNETH J. POGUE

Undersecretary, Administration and Offender Services
California Department of Corrections and Rehabilitation

Attachments

NOTICE OF PROPOSED REGULATORY ACTION

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

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, proposes to amend California Code of Regulations (CCR), Title 15, Division 3, Sections 3000, 3030, 3190, and 3269 regarding state-issued property, authorized personal property, and housing assignments for transgender inmates and inmates having symptoms of gender dysphoria.

PUBLIC HEARING:

Date and Time: **June 19, 2017 – 2:00 p.m. to 3:00 p.m.**

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

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close **June 19, 2017, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

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

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

R. Orr
Regulation and Policy Management Branch
Telephone (916) 445-2314

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

Daniel Ross
Division of Adult Institutions
Telephone (916) 324-6808

AUTHORITY AND REFERENCE:

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

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

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

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to GC Section 11340.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Current regulations designate state-issued property and authorized personal property as being available based upon inmates' anatomical sexes. However, current regulations do not meet the needs of transgender inmates or inmates having symptoms of gender dysphoria, whose gender identities do not correspond with their anatomical sexes.

In August 2015, the settlement agreement for *Quine v. Beard* required the Department to review and revise its policies to allow "inmates identified by medical or CDCR personnel as transgender or having symptoms of gender dysphoria access to property items available to CDCR inmates consistent with those inmates' custody and classification factors, including property items that are designated as available to a specific gender only." In June 2016, the court made recommendations pertaining to the implementation of the settlement agreement regarding the provision of specific property items.

In consideration of the settlement and subsequent court recommendations, the regulations allow transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in the Strategic Offender Management System (SOMS), as defined in Section 3000, by medical or mental health personnel within a CDCR institution to have access to state-issued and authorized personal property items at designated institutions in accordance with their gender identities while maintaining the different safety and security needs of male and female institutions.

This action provides the following:

- Definitions of "gender dysphoria," "gender identity" and "transgender."
- Transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution shall:
 - Be allowed to possess the state-issued clothing that corresponds to their gender identities in place of the state-issued clothing that corresponds to their anatomical sexes at designated institutions.
 - Be allowed to possess authorized personal property items as listed on the Transgender Inmates Authorized Personal Property Schedule (4/28/17), which is incorporated by reference and organized in terms of designated male and female institutions.
 - Be housed in designated institutions that are specifically selected to accommodate a wide variety of inmate custody levels and educational, vocational, and rehabilitative needs, and that shall provide continuous training to custody, medical, and mental health staff specifically regarding transgender inmates and inmates having symptoms of gender dysphoria and how to address their needs effectively within the overall inmate population.
 - Be referred to a classification committee for a determination of appropriate housing at a designated institution.

DOCUMENTS INCORPORATED BY REFERENCE:

The Transgender Inmates Authorized Personal Property Schedule (4/28/17) is incorporated by reference and made available to the public in this notice package.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department anticipates that these regulations will bring the Department into compliance with the *Quine v. Beard* settlement agreement and subsequent recommendations by the court. By adopting regulations that authorize transgender inmates and inmates having symptoms of gender dysphoria to have access to state-issued and authorized personal property items at designated institutions in accordance with their gender identities, the Department will ensure that the property privileges of transgender inmates and inmates having symptoms of gender dysphoria are clearly stated and that further litigation against the Department will be minimized, which will save the State legal costs.

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING REGULATIONS:

In developing the proposed regulations, the Department researched existing statutes and regulations regarding state-issued property, authorized personal property, and housing assignments for transgender inmates and inmates having symptoms of gender dysphoria and concluded that the proposed regulations are not inconsistent or incompatible with existing state laws and regulations.

LOCAL MANDATES:

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

FISCAL IMPACT STATEMENT:

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

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

Effect on Jobs/Businesses

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

Effect on the Health and Welfare of California residents, worker safety, and the State’s environment

The Department has made an initial determination that the proposed regulations will have no impact on the health and welfare of California residents, worker safety, or the State’s environment as the proposed regulations only affect the internal management of CDCR prisons. As stated under the “Specific Benefits Anticipated by the Proposed Regulations” section of this document, by adopting regulations that authorize transgender inmates and inmates having symptoms of gender dysphoria to have access to state-issued and authorized personal property items at designated institutions in accordance with their gender identities, the Department will ensure that the property privileges of transgender inmates and inmates having symptoms of gender dysphoria are clearly stated and that further litigation against the Department will be minimized, which will save the State legal costs.

EFFECT ON HOUSING COSTS:

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESS:

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

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

EFFECT ON SMALL BUSINESSES:

The Department has made an initial determination that this action has no significant adverse economic impact on small business as these regulations pertain to state-issued property, authorized personal property, and housing assignments for transgender inmates and inmates having symptoms of gender dysphoria, and the prison population does not have a significant impact on small businesses.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

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

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text and underline indicates added or amended text.

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

Division 3, Adult Institutions, Programs, and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

Section 3000. Definitions.

Section 3000 is amended to alphabetically merge the definitions below with those already in the regulations.

Gender Dysphoria means distress caused by a conflict between a person's gender identity and the sex the person had or was identified as having at birth.

Gender Identity means a person's sense of identification as male, female, neither, or both.

Transgender means a person whose gender identity is different from the person's assigned sex at birth.

Note: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5009, 5050, 5054, 5068, 7000 et seq. and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; *Madrid v. Cate* (U.S.D.C. N.D. Cal. C90-3094 TEH); *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223; *Mitchell v. Cate*, USDC ED 2:08-CV-01196-TLN-EFB; ~~and~~ *In re Garcia* (2012) 202 Cal.App.4th 892; and *Quine v. Beard*, No. C 14-02726 JST.

Article 2. State-Issued Inmate Clothing and Linen

Section 3030. Issuance and Possession of State Clothing and Linen.

Subsections 3030(a) and 3030(b) are unchanged but are shown for reference.

(a) Each inmate shall be provided state clothing and linen pursuant to this section. Each item issued shall remain state property for which the inmate shall be accountable. State items shall be recalled and exchanged as directed by the institution head.

(b) Inmates shall possess only those items of state clothing and linen issued to them. Below are the standard inmate issues:

Subsections 3030(b)(1) through 3030(b)(3)(I) are unchanged.

New Subsection 3030(c) is adopted to read:

(c) Transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution shall be allowed to possess the state-issued clothing that corresponds to their gender identities in place of the state-issued clothing that corresponds to their anatomical sexes at designated institutions.

Existing Subsections 3030(c) through 3030(d) are renumbered to new Subsections 3030(d) through 3030(f) and the text is unchanged.

~~(de)~~...

~~(ed)~~...

~~(fe)~~...

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2084 and 5054, Penal Code; and *Quine v. Beard*, No. C 14-02726 JST.

Subchapter 2. Inmate Resources

Article 9. Personal Property and Religious Personal Property

Section 3190. General Policy.

Subsections 3190(a) through 3190(c) are unchanged.

New Subsection 3190(d) is adopted to read:

(d) The Transgender Inmates Authorized Personal Property Schedule (TIAPPS) (4/28/17) identifies a separate list of allowable personal property afforded to transgender inmates and inmates with symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution, and is incorporated by reference. The TIAPPS shall be updated through the collaboration of all mission-based programs within the Division of Adult Institutions no more frequently than twice yearly. All changes to the TIAPPS shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code Sections 11340 through 11350.3) and, if applicable, Penal Code Section 5058.3.

The following two property lists are incorporated by reference:

(1) TIAPPS—Designated Male Institutions (4/28/17). This personal property schedule applies to transgender inmates and inmates having symptoms of gender dysphoria who are housed at male institutions.

(2) TIAPPS—Designated Female Institutions (4/28/17). This personal property schedule applies to transgender inmates and inmates having symptoms of gender dysphoria who are housed at female institutions.

Existing Subsections 3190(d) through 3190(u) are renumbered to new Subsections 3190(e) through 3190(v) and the text is unchanged.

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(vh)...

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2086, 2601, 5006 and 5054, Penal Code; *In re Alcalá*, Marin County Superior Court, No. 117925, December 20, 1984 and *Armstrong v. Davis Court Ordered Remedial Plan*, Amended January 3, 2001; *In re Armstrong*, N.D. Cal, No. C 94-02307, March 20, 1998; and *Quine v. Beard*, No. C 14-02726 JST.

Subchapter 4. General Institution Regulations

Article 1.6. Inmate Housing

Section 3269. Inmate Housing Assignments.

Sections 3269 through 3269(f) are unchanged.

New Subsection 3269(g) is adopted to read:

(g) Transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution shall be referred to a classification committee for a determination of appropriate housing at a designated institution, pursuant to Article 10 of Subchapter 4.

Existing Subsection 3269(g) is renumbered to new Subsection 3269(h) and the text is unchanged.

(hg)...

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Quine v. Beard*, No. C 14-02726 JST.

TRANSGENDER INMATES

AUTHORIZED PERSONAL PROPERTY SCHEDULE

(4/28/17)

DESIGNATED MALE INSTITUTIONS.....PAGE 2

DESIGNATED FEMALE INSTITUTIONS.....PAGE 5

Transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution who are housed at male institutions may possess the authorized personal property items listed in the “DESIGNATED MALE INSTITUTIONS” section of this schedule and in the Authorized Personal Property Schedule (APPS) (Rev. 4/1/14), which is incorporated by reference in Section 3190(b), specific to their security levels and privilege groups as described in Subsections 3190(b)(1) through 3190(b)(4). Transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution who are housed at female institutions may possess the authorized personal property items listed in the “DESIGNATED FEMALE INSTITUTIONS” section of this schedule and in the APPS specific to their security levels and privilege groups as described in Subsection 3190(b)(5).

Despite the increase in allowable personal property items, the combined volume of state-issued and allowable personal property items possessed by a transgender inmate or an inmate having symptoms of gender dysphoria shall not exceed six cubic feet per Subsection 3190(d).

DESIGNATED MALE INSTITUTIONS

**PERSONAL CLOTHING ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

- INMATES ARE PERMITTED TO WEAR SOLID COLORS ONLY, UNLESS OTHERWISE INDICATED.
- INMATES ARE PROHIBITED FROM POSSESSING, USING, OR WEARING PERSONAL CLOTHING ITEMS IN ANY SHADE OR TINT OF GREEN, BLACK, BROWN, TAN, RED, OR BLUE, UNLESS OTHERWISE INDICATED.
- INMATES ARE PROHIBITED FROM POSSESSING, USING, OR WEARING ITEMS WHICH ARE OBSCENE OR WHICH HAVE LOGOS, LETTERING, OR PICTURES WHICH ADVERTISE OR DEPICT ALCOHOL, GANGS, PROFANITY, SEX, WEAPONS, DRUGS, OR DRUG PARAPHERNALIA.

ITEM DESCRIPTION With additional requirements and restrictions.	GENERAL POPULATION LEVELS I, II, and III			GENERAL POPULATION LEVEL IV			SHU/PSU	ASU	
	PRIVILEGE GROUP								
	A	B	C	A	B	C	D	D	
BRASSIERES (White or gray only. No metal underwire, lace, strapless, see through, or pushup.)	7	7	7	7	7	7	7	7	
PANTIES (White or gray only. No thong, G-string, lace, see-through or pockets.)	10	10	10	10	10	10	10	10	
SANDALS (Beige, brown, or white only. No hidden compartments, zippers, or laces that are covered or concealed. Purchase value not to exceed \$75.)	1	1	1	1	1	1	0	0	
T-SHIRTS (White or gray only. Any combination of crew neck, v-neck, long sleeve, or sleeveless athletic tank-top. Turtle neck and mock turtle neck not permitted. The number of allowable t-shirts is combined with, and not in addition to, the number of allowable under shirts. Under shirts are as allowed in the APPS.)	5	5	5	5	5	5	3	0	
WALKING SHOES (Beige, brown, or white only.)	1	1	1	1	1	1	0	0	

**PERSONAL CARE/HYGIENE ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

- NO ALCOHOL-BASED PRODUCTS AND NO AEROSOL CONTAINERS ALLOWED.
- NO METAL CONTAINERS OR CONTAINERS HAVING METAL TOPS OR BOTTOMS.
- PRODUCTS CONTAINING PHOSPHATES ARE NOT ALLOWED.
- MAKE UP PRODUCTS ARE ALLOWED AS DESCRIBED BELOW. THEY MUST BE NATURAL SKIN TONES PER CALIFORNIA CODE OF REGULATIONS, SECTION 3062, INMATE GROOMING STANDARDS.

ITEM DESCRIPTION With additional requirements and restrictions.	GENERAL POPULATION LEVELS I, II, and III			GENERAL POPULATION LEVEL IV			SHU/PSU	ASU
	PRIVILEGE GROUP							
	A	B	C	A	B	C	D	D
BODY SPLASH (10 oz. each max. No sprays or pumps.)	2	2	2	2	2	2	0	0
BLUSH (Natural skin tones only.)	2	2	2	2	2	2	0	0
COTTON BALLS	400	400	400	400	400	400	0	0
EMERY BOARD (Non-metal only.)	6	6	6	6	6	6	0	0
EYEBROW PENCIL/EYELINER (Factory sealed. Pencil only, no liquid. Natural skin tones only, i.e., black or brown in color.)	2	2	2	2	2	2	0	0
EYE SHADOW KIT (No mirrors. Kit shall not be altered. Natural skin tones only.)	2	2	2	2	2	2	0	0
FABRIC SOFTENER (Liquid, one bottle only, 36 oz. max.)	1	1	1	1	1	1	0	0
FACE POWDER (10oz. each max.)	2	2	2	2	2	2	0	0
FACIAL ASTRINGENT (10 oz. each max.)	2	2	2	2	2	2	1	0
FACIAL CLEANSER (10 oz. each max.)	2	2	2	2	2	2	1	0
FEMINE HYGIENE WASH	2	2	2	2	2	2	1	0
FOUNDATION (Natural skin tones only.)	2	2	2	2	2	2	0	0
HAIR GEL, SPRAY AND GEL CURL, BRAID SPRAY AND LOCK GEL	2	2	2	2	2	2	1	0
HAIR ROLLERS (Non-electric.)	30	30	30	30	30	30	0	0
LIP GLOSS/LIPSTICK/LIP LINER (Natural skin tone only.)	2	2	2	2	2	2	0	0
MASCARA (Factory sealed. Natural skin tone, i.e., black or brown.)	1	1	1	1	1	1	0	0
PUMICE BAR/PUMICE SPONGE (Combined with shower puffs/loofahs and	3	3	3	3	3	3	0	0

washcloths. Washcloths are as allowed in the APPS.)								
SCRUNCHIES (Black, white, or gray only. Combined total with hair ties. Hair ties are as allowed in the APPS.)	10	10	10	10	10	10	0	0
SHOWER BAG (At Warden's discretion. Mesh construction.)	1	1	1	1	1	1	0	0
SHOWER CAP (Must be both clear and colorless.)	1	1	1	1	1	1	0	0
SHOWER PUFFS/LOOFAHS (White only. Combined with pumice bar/pumice sponge and washcloths. Washcloths are as allowed in the APPS.)	3	3	3	3	3	3	0	0
TWEEZERS (Plastic only. Maximum of 3" long.)	1	1	1	1	1	1	0	0

**REGISTERABLE PROPERTY FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

ITEM DESCRIPTION With additional requirements and restrictions.	GENERAL POPULATION LEVELS I, II, and III			GENERAL POPULATION LEVEL IV			SHU/PSU	ASU
	PRIVILEGE GROUP							
	A	B	C	A	B	C	D	D
CHAIN OR NECKLACE (Yellow or white metal only. Purchase value not to exceed \$25. The chain or necklace shall be no more than 5 millimeters wide and 24" long.)	1	1	0	1	1	0	0	0

DESIGNATED FEMALE INSTITUTIONS

**PERSONAL CLOTHING ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

- INMATES ARE PERMITTED TO WEAR SOLID COLORS ONLY, UNLESS OTHERWISE INDICATED.
- INMATES ARE PROHIBITED FROM POSSESSING, USING, OR WEARING PERSONAL CLOTHING ITEMS IN ANY SHADE OR TINT OF GREEN, BLACK, BROWN, TAN, RED, OR BLUE, UNLESS OTHERWISE INDICATED.
- INMATES ARE PROHIBITED FROM POSSESSING, USING, OR WEARING ITEMS WHICH ARE OBSCENE OR WHICH HAVE LOGOS, LETTERING, OR PICTURES WHICH ADVERTISE OR DEPICT ALCOHOL, GANGS, PROFANITY, SEX, WEAPONS, DRUGS, OR DRUG PARAPHERNALIA.

ITEM DESCRIPTION With additional requirements and restrictions.	GENERAL POPULATION LEVELS I, II, and III			GENERAL POPULATION LEVEL IV			SHU	ASU	
	PRIVILEGE GROUP								
	A	B	C	A	B	C	D	D	
ATHLETIC SUPPORTER	2	2	2	2	2	2	2	0	
BINDERS/COMPRESSION TOPS (White or gray only. The number of allowable binders/compression tops is combined with, and not in addition to, the number of allowable brassieres. Brassieres are as allowed in the APPS.)	7	7	7	7	7	7	7	7	
BRIEFS/BOXERS (White or gray only. For SHU and ASU inmates, boxers shall have no elastic on the leg opening.)	10	10	10	10	10	10	6	0	

**PERSONAL CARE/HYGIENE ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

- NO ALCOHOL-BASED PRODUCTS AND NO AEROSOL CONTAINERS ALLOWED.
- NO METAL CONTAINERS OR CONTAINERS HAVING METAL TOPS OR BOTTOMS.
- PRODUCTS CONTAINING PHOSPHATES ARE NOT ALLOWED.

ITEM DESCRIPTION With additional requirements and restrictions.	GENERAL POPULATION LEVELS I, II, and III			GENERAL POPULATION LEVEL IV			SHU	ASU
	PRIVILEGE GROUP							
	A	B	C	A	B	C	D	D
AFTER SHAVE (Must be clear and in clear container only. 5 oz. each max.)	2	2	2	2	2	2	1	0

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend the California Code of Regulations (CCR), Title 15, Division 3, Sections 3000, 3030, 3190, and 3269 regarding state-issued property, authorized personal property, and housing assignments for transgender inmates and inmates having symptoms of gender dysphoria.

In August 2015, the settlement agreement for *Quine v. Beard* required the Department to review and revise its policies to allow “inmates identified by medical or CDCR personnel as transgender or having symptoms of gender dysphoria access to property items available to CDCR inmates consistent with those inmates’ custody and classification factors, including property items that are designated as available to a specific gender only.” In June 2016, the court made recommendations pertaining to the implementation of the settlement agreement regarding the provision of specific property items. In consideration of the settlement and subsequent court recommendations, the Department proposes these regulations, which will allow transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in the Strategic Offender Management System (SOMS), as defined in Section 3000, by medical or mental health personnel within a CDCR institution shall be allowed to have access to state-issued and authorized personal property items at designated institutions in accordance with their gender identities while maintaining the different safety and security needs of male and female institutions.

SPECIFIC PURPOSE AND RATIONALE FOR EACH SECTION, PER GOVERNMENT CODE 11346.2(b)(1)

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

Section 3000. Definitions.

Section 3000 is amended to alphabetically merge the definitions of “gender dysphoria,” “gender identity” and “transgender” with those already in the regulations. These definitions are established to provide clarity and context to staff, inmates, and the public regarding the use of the new terms within Title 15, Division 3. The proposed definitions for “gender dysphoria,” “gender identity,” and “transgender” are derived from widely accepted definitions for these terms noted in the Merriam-Webster Dictionary, as well as publications by the American Psychiatric Association, American Psychological Association and the National Center for Transgender Equality (please see the “Documents Relied Upon” section of this document for more information).

Article 2. State-Issued Inmate Clothing and Linen

Section 3030. Issuance and Possession of State Clothing and Linen.

Subsections 3030(a) through 3030(b)(3)(I) are unchanged.

New Subsection 3030(c) is adopted to establish that transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution shall be allowed to possess the state-issued clothing that corresponds to their gender identities in place of the state-issued clothing that corresponds to their anatomical sexes at designated institutions. This authorization brings the Department into compliance with the stipulation in the *Quine v. Beard* settlement agreement that the Department

shall allow transgender inmates and inmates having symptoms of gender dysphoria to have “access to property items available to CDCR inmates consistent with those inmate’s custody and classification factors, including property items that are designated as available to a specific gender only.” Please see the justification for new Subsection 3269(g) regarding the designated institutions component.

Existing Subsections 3030(c) and 3030(d) are renumbered to new Subsections 3030(d) and 3030(e) and the text is unchanged.

Subchapter 2. Inmate Resources

Article 9. Personal Property and Religious Personal Property

Subsections 3190(a) through 3190(c) are unchanged.

New Subsection 3190(d) is adopted to establish the Transgender Inmates Authorized Personal Property Schedule (TIAPPS) (4/28/17), which is incorporated by reference and made available to the public in this notice package. The TIAPPS is necessary to make specific the authorized personal property items that may be possessed by transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution, thereby ensuring that staff, inmates, and the public are aware of the specifications. The TIAPPS brings the Department into compliance with the stipulation in the *Quine v. Beard* settlement agreement that the Department shall allow transgender inmates and inmates having symptoms of gender dysphoria to have “access to property items available to CDCR inmates consistent with those inmate’s custody and classification factors, including property items that are designated as available to a specific gender only.”

The TIAPPS is established as a separate property schedule but will effectively serve as an extension of the Authorized Personnel Property Schedule (APPS) (4/1/14), which is incorporated by reference into Subsection 3190(b). The items in the TIAPPS are structured in the same way as in the APPS, and this structure includes item descriptions, specific restrictions and allowances related to the items, and the quantities of the items that are allowed for each custody level and privilege group in accordance with Subsections 3044(c)-(h) and Section 3190. Many of the items that are included in the TIAPPS are also included in the APPS, but where the APPS restricts these select items to inmates of a particular gender, the TIAPPS allows these items to be possessed by transgender inmates and inmates having symptoms of gender dysphoria who are housed at designated institutions when those items do not pose a risk to the safety and security of staff, inmates, and the public. Please see the justification for new Subsection 3269(g) regarding the designated institutions component.

In keeping with the same approach used in adopting the Religious Personal Property Matrix (Rev. 6/27/13) and the Non Disciplinary Segregation Personal Property Matrix (Rev. 12/20/13), which are incorporated by reference into Subsections 3190(b) and 3190(c) respectively, the Department is providing statements regarding the specific purpose and rationale for the necessity of personal property items listed in the TIAPPS when items are being newly established within the TIAPPS or are included in the APPS but are deviating in some measure from the way in which they are listed in the APPS.

The TIAPPS is divided in terms of designated male and female institutions for organizational purposes so that the authorized personal property allowances for transgender inmates and

inmates having symptoms of gender dysphoria may be better understood by staff, inmates, and the public, and to be reflective of the fact that male and female institutions present varying security needs that must be met in order to maintain the safety and security of the institutions. For example, the CDCR COMPSTAT (short for COMPuter STATistics or COMPARative STATistics, COMPSTAT is an organizational management tool based on a concept of statistical analysis of operational performance, continuous review, and direct dialogue between CDCR's executive management and program managers) reports for 2015 show that inmates at male institutions commit weapons offenses at twice the rate of inmates at female institutions (1.25 per capita for males and .66 per capita for females). Weapons offenses are therefore a greater concern at male institutions than female institutions, and property authorizations must be reflective of that concern. Additionally, the National Gang Crime Research Center (NGCRC) determined that "the prison gang problem remains mostly a male problem, with female inmates having a significantly lower gang density rate." Inmates belonging to Security Threat Groups (STGs), a term which is defined in Section 3000, frequently attempt to use colors to show their affiliations. Being that STGs are more prevalent among male inmates and are therefore more prevalent in male institutions, the use of colors to show STG affiliations is a greater concern at male institutions than female institutions and property authorizations must be reflective of that concern.

The TIAPPS includes the items listed in the recommendations pertaining to the settlement agreement for *Quine v. Beard* that are not covered in the state-issued property provided in Section 3030 with the exception of the following, which are excluded from designated male institutions for the reasons provided:

- **Pajamas:** The Department has determined that the slash between "Pajama/Nightgown" in the recommendations allows the Department the option of providing either pajamas or a nightgown. A nightgown will be provided to transgender inmates and inmates having symptoms of gender dysphoria who are housed at designated male institutions as state-issued property pursuant to Section 3030, and therefore this item does not appear on the TIAPPS.
- **Scarves:** The CDCR Division of Adult Institutions, in consultation with the CDCR Office of Legal Affairs, has determined that the proposed regulations are consistent with the Court's recommendations pertaining to the settlement agreement for *Quine v. Beard*, which state that "inmates identified by medical or CDCR personnel as transgender or having symptoms of gender dysphoria housed in male institutions [should have] at least some access to the following items currently only permitted in female institutions: Pajama/Nightgown, Robe, Sandals, Scarf, T-Shirts, and Walking Shoes" (emphasis added). CDCR has provided some access to those items but has found the scarf to be too much of a security risk because it would be uncontrolled and unaccounted for, and made of material that can be too easily fashioned into clothing items for the purpose of escape.
- **Curling Irons:** Transgender inmates and inmates having symptoms of gender dysphoria who are housed at designated male institutions will have access to curling irons in common areas where the usage of the curling irons shall be under direct staff supervision; curling irons shall not be permitted as authorized personal property as they pose a security risk due to their being comprised of large pieces of metal that can be modified into and used as weapons.
- **Bracelets, Earrings, Hair Brushes, Hair Clips:** These items are specifically listed in the recommendations as items that "pose significant safety and security concerns" that would

prevent them from being allowed in male institutions. The Department agrees with the Court and has determined that transgender inmates and inmates having symptoms of gender dysphoria who are housed at designated male institutions shall not be authorized to possess these items.

The introductory language on Page 1 of the TIAPPS is necessary to ensure the understanding that although the TIAPPS authorizes additional personal property items for transgender inmates and inmates having symptoms of gender dysphoria who are housed at designated male and female institutions, they are still subject to the established six cubic feet limitation of combined state-issued and personal property described in Subsection 3190(d).

DESIGNATED MALE INSTITUTIONS

**PERSONAL CLOTHING ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

The three introductory bullet points concerning the color and image restrictions placed on authorized personal property items are included in the APPS, which is incorporated by reference into Section 3190(b). To ensure a clear understanding that these restrictions are applicable to the TIAPPS, this information is also included in this schedule for ease of reference.

TIAPPS ITEM DESCRIPTION	APPS ITEM DESCRIPTION	JUSTIFICATION/ NECESSITY STATEMENT
(Authorized for transgender inmates and inmates having symptoms of gender dysphoria as identified by medical or mental health personnel within a CDCR institution who are housed at designated male institutions.)	(Authorized for female inmates.)	
BRASSIERES (White or gray only. No metal underwire, lace, strapless, see through, or pushup.)	BRASSIERES (No metal underwires, lace, strapless, see through, or push up. Any solid color except as noted above).	“White or gray only” is added because inmates belonging to STGs frequently attempt to use colors to show their affiliations, and white and gray present no apparent security risks. “Any solid color except noted above” is removed because only white and gray are authorized.
PANTIES (White or gray only. No thong, G-string, lace, see-through or pockets.)	PANTIES (No thong, G-string, lace, see-through, or pockets).	“White or gray only” is added because inmates belonging to STGs frequently attempt to use colors to show their affiliations, and white and gray present no apparent security risks.
SANDALS (Beige, brown, or white only. No hidden compartments,	SANDALS (No hidden compartments, zippers, or laces that are covered or	“Beige, brown, or white only” is added because inmates belonging to STGs frequently attempt to use colors to show their affiliations, and beige, brown, and white present no apparent security risks.

zippers, or laces that are covered or concealed. Purchase value not to exceed \$75.)	concealed. Purchase value not to exceed \$75).	
T-SHIRTS (White or gray only. Any combination of crew neck, v-neck, long sleeve, or sleeveless athletic tank-top. Turtle neck and mock turtle neck not permitted. The number of allowable t-shirts is combined with, and not in addition to, the number of allowable under shirts. Under shirts are as allowed in the APPS.)	UNDER SHIRTS/ T-SHIRTS (Solid colors only, exclusive of colors noted above. Any combination of crew neck, v-neck, long sleeve, or sleeveless athletic tank-top. Turtle neck and mock turtle neck not permitted). SHU and ASU white or gray only.	“White or gray only” is added because inmates belonging to STGs frequently attempt to use colors to show their affiliations, and white and gray present no apparent security risks. “The number of allowable t-shirts is combined with, and not in addition to, the number of allowable under shirts” is added because the under shirt and t-shirt allowances are combined for female inmates and will therefore be combined for transgender inmates and inmates having symptoms of gender dysphoria who are housed at male institutions. “SHU and ASU white or gray only” is removed because the “white or gray only” requirement will apply to all security levels, and being that under shirts are disallowed for male inmates housed in ASU, t-shirts will also be disallowed for transgender inmates and inmates having symptoms of gender dysphoria who are housed in male institutions who are housed in ASU.

**PERSONAL CARE/HYGIENE ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

The four introductory bullet points concerning the restrictions placed on authorized personal property items regarding the content and containers of personal care/hygiene products are included in the APPS, which is incorporated by reference into Section 3190(b). To ensure a clear understanding that these restrictions are applicable to the TIAPPS, this information is also included in this schedule for ease of reference.

TIAPPS ITEM DESCRIPTION	APPS ITEM DESCRIPTION	JUSTIFICATION/ NECESSITY STATEMENT
(Authorized for transgender inmates and inmates having symptoms of gender dysphoria as identified by medical or mental health personnel within a CDCR institution who are housed at designated male institutions.)	(Authorized for female inmates.)	
BODY SPLASH (10 oz. each max. No sprays or pumps.)	BODY SPLASH/ SPRAY (10 oz. each max.).	Body spray is disallowed and “No sprays or pumps” is added as a security measure to reduce instances of inmates attacking staff members by spraying or squirting body fluids or other liquids in an attempt to injure them.
FABRIC SOFTENER	FABRIC SOFTENER (Liquid, 1 bottle)	Fabric softener (sheets) is disallowed because washing and drying machines for clothes are not accessible to inmates at male institutions. Fabric softener (liquid) is allowed to afford inmates

(Liquid, one bottle only, 36 oz. max.)	only-36 oz. max., or 2 boxes of sheet fabric softener).	the opportunity to self-laundry their clothing in their cells.
HAIR ROLLERS (Non-electric.)	PERSONAL CARE/HYGIENE: HAIR ROLLERS REGISTERABLE: HAIR ROLLERS, ELECTRIC (Purchase value not to exceed \$25).	The APPS lists both electric and non-electric hair rollers, so “Non-electric” is added to clarify that the TIAPPS does not authorize electric hair rollers. Electric hair rollers are disallowed because they contain core metal pieces that can be removed and easily altered to use in inmate manufactured weapons.
PUMICE BAR/PUMICE SPONGE (Combined with shower puffs/loofahs and washcloths. Washcloths are as allowed in the APPS.)	WASHCLOTHS/ SHOWER PUFFS/ LOOFAH, PUMICE STONE (White only).	“PUMICE BAR/PUMICE SPONGE” is being authorized in place of “PUMICE STONE” due to security concerns, as pumice stones are comprised of very sturdy material that could easily be used to sharpen objects into weapons whereas pumice bars/sponges are comprised of comparatively softer martial. “Combined with shower puffs/loofahs and washcloths” is added to reflect the item quantities listed in the APPS for “WASHCLOTHS/ SHOWER PUFFS/LOOFAH, PUMICE STONE” in accordance with each custody level and privilege group.
SCRUNCHIES (Black, white, or gray only. Combined total with hair ties. Hair ties are as allowed in the APPS.)	HAIR CLIPS, TIES, & SCRUNCHESES (Clips are a maximum 3” in size). HAIR TIES (Colors of black, white and gray only).	“Black, white, or gray only” is added because inmates belonging to STGs frequently attempt to use colors to show their affiliations, and black, white, and gray present no apparent security risks. “Combined with total hair ties” is added to reflect the item quantities listed in the APPS for “HAIR CLIPS, TIES, & SCRUNCHESES” (hair clips are disallowed in male institutions, but hair ties are allowed). Hair clips are disallowed because in the recommendations pertaining to the settlement agreement for <i>Quine v. Beard</i> , “hair clips” is listed as one of the items that are permitted only in female institutions that “pose significant safety and security concerns” that would prevent them from being allowed in male institutions.
SHOWER CAP (Must be both clear and colorless.)	SHOWER CAP (Clear only).	“Must be both clear and colorless” is added in place of “Clear only” because inmates belonging to STGs frequently attempt to use colors to show their affiliations, and the specification of colorlessness is needed for clarity to ensure understanding that shower caps of any color/tint are disallowed regardless of the transparency of the material.
SHOWER PUFFS/LOOFAHS (White only. Combined with pumice bar/pumice sponge and washcloths. Washcloths are as allowed in the APPS.)	WASHCLOTHS/ SHOWER PUFFS/ LOOFAH, PUMICE STONE (White only).	“Combined with pumice bar/pumice sponge and washcloths” is added to reflect the items tallies listed in the APPS for “WASHCLOTHS/ SHOWER PUFFS/LOOFAH, PUMICE STONE.”
TWEEZERS (Plastic only. Maximum of 3” long.)	TWEEZERS (Metal is permitted. Maximum of 3” long).	“Plastic only” is added due to security concerns, as metal tweezers can be easily modified into sturdy weapon stock and sharpened to a point whereas plastic tweezers are not strong enough to be used as effectively as weapons.

**REGISTERABLE PROPERTY FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

TIAPPS ITEM DESCRIPTION	APPS ITEM DESCRIPTION	JUSTIFICATION/ NECESSITY STATEMENT
(Authorized for transgender inmates and inmates having symptoms of gender dysphoria as identified by medical or mental health personnel within a CDCR institution who are housed at designated male institutions.)	(Authorized for female inmates.)	
CHAIN OR NECKLACE (Yellow or white metal only. Purchase value not to exceed \$25. The chain or necklace shall be no more than 5 millimeters wide and 24” long.)	CHAIN, NECKLACE OR BRACELET (Yellow or white metal only. Purchase value not to exceed \$25).	“BRACELET” is disallowed because in the recommendation pertaining to the settlement agreement for <i>Quine v. Beard</i> , “bracelet” is listed as one of the items that “pose significant safety and security concerns” that would prevent them from being allowed in male institutions. “The chain or necklace shall be no more than 5 millimeters wide and 24” long” is added to minimize disruptive and predatory behavior between inmates where relatively weaker inmates are pressured into giving away items of personal property.

DESIGNATED FEMALE INSTITUTIONS

**PERSONAL CLOTHING ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

The three introductory bullet points concerning the color and image restrictions placed on authorized personal property items are included in the APPS, which is incorporated by reference into Section 3190(b). To ensure a clear understanding that these restrictions are applicable to the TIAPPS, this information is also included in this schedule for ease of reference.

TIAPPS ITEM DESCRIPTION	APPS ITEM DESCRIPTION	JUSTIFICATION/ NECESSITY STATEMENT
(Authorized for transgender inmates and inmates having symptoms of gender dysphoria as identified by medical or mental health personnel within a CDCR institution who are housed at designated female institutions.)	(Authorized for male inmates.)	
BINDERS/ COMPRESSION	NEW ITEM – NOT	“BINDERS/COMPRESSION TOPS” is established in the TIAPPS to serve as alternates for brassieres, providing necessary

<p>TOPS (White or gray only. The number of allowable binders/compression tops is combined with, and not in addition to, the number of allowable brassieres. Brassieres are listed in the APPS.)</p>	<p>IN THE APPS</p>	<p>support while allowing for an aesthetic that would be in keeping with the gender identity of a transgender inmate or an inmate having symptoms of gender dysphoria. “The number of allowable binders/compression tops is combined with, and not in addition to, the number of allowable brassieres” is added because the binders/compression tops are meant to serve as alternatives to brassieres, and therefore the number of binders/compressions tops allowed per custody level and privilege group as listed on the TIAPPS for transgender inmates and inmates having symptoms of gender dysphoria who are housed at female institutions mirrors the number of brassieres allowed per custody level and privilege group as listed on the APPS for female inmates.</p>
<p>BRIEFS/BOXERS (White or gray only. For SHU and ASU inmates, boxers shall have no elastic on the leg opening.)</p>	<p>GENERAL POPULATION: BRIEFS/BOXERS (White or gray only). SHU, PSU, & ASU: BRIEFS/BOXERS (White or gray only). Boxers shall have no elastic on the leg opening.</p>	<p>“For SHU and ASU inmates, boxers shall have no elastic on the leg opening” is added to combine the requirements and restrictions in the APPS that are based upon custody levels and privilege groups in accordance with female institutions. The APPS does not include a PSU category for female inmates, and therefore the TIAPPS does not include a PSU category for transgender inmates and inmates having symptoms of gender dysphoria who are at female institutions.</p>

**PERSONAL CARE/HYGIENE ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA**

The four introductory bullet points concerning the restrictions placed on authorized personal property items regarding the contents and containers of personal care/hygiene products are included in the APPS, which is incorporated by reference into Section 3190(b). To ensure a clear understanding that these restrictions are applicable to the TIAPPS, this information is also included in this schedule for ease of reference.

Existing Subsections 3190(d) through 3190(u) are renumbered to new Subsections 3190(e) through 3190(v) and the text is unchanged.

Subchapter 4. General Institution Regulations

Article 1.6. Inmate Housing

Sections 3269 through 3269(f) are unchanged.

New Subsection 3269(g) is adopted to establish that transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution shall be referred to a classification committee for a determination of appropriate housing at a designated institution.

The transgender inmate population, including inmates having symptoms of gender dysphoria, is very small in comparison with the overall inmate population: at present, there are approximately 500 inmates identified as transgender or having symptoms of gender dysphoria in an overall inmate population of approximately 129,000 inmates. CDCR has currently designated 14 institutions to house transgender inmates and inmates having symptoms of gender dysphoria. The designated institutions are specifically selected to accommodate a wide variety of inmate

custody levels and educational, vocational, and rehabilitative needs. The designated institutions shall provide continuous training to custody, medical, and mental health staff specifically regarding transgender inmates and inmates having symptoms of gender dysphoria and how to address their needs effectively within the overall inmate population. For logistical and practical purposes in meeting the needs of the relatively small population, the Department will designate institutions in order to provide training to a large number of staff at a small number of institutions as opposed to a small number of staff at a large number of institutions. And in terms of the logistical training needs relative to the identified population, for example, Department staff at the designated institutions need to be able to distinguish between the property that is authorized for transgender inmates and inmates having symptoms of gender dysphoria by contrast to the property that is authorized for the rest of the inmate population in order to ensure that all inmates are only in possession of the property items that they are authorized to possess.

Institutions that are designated to house transgender inmates and inmates having symptoms of gender dysphoria will not house *only* these identified inmates. A classification committee shall review each inmate's case for appropriate housing, based upon the totality of the inmate's case factors, in accordance with Chapter 1, Subchapter 4, Article 10.

Existing Subsection 3269(g) is renumbered to new Subsection 3269(h) and the text is unchanged.

CONSIDERATION OF ALTERNATIVES

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

ECONOMIC IMPACT ASSESSMENT

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

Creation or Elimination of Jobs within the State of California

The Department has determined that the proposed regulations will have no impact on the creation of new or the elimination of existing jobs or businesses within California as the proposed regulations only affects the internal management of CDCR prisons.

Creation of New or Elimination of Existing Businesses within the State of California

The Department has determined that the proposed regulations will have no impact on the creation of new or elimination of existing businesses within the State of California as the proposed regulations only affect the internal management of CDCR prisons.

Expansion of Businesses Currently Doing Business within the State of California

The Department has determined that the proposed regulations will have no impact on the expansion of businesses currently doing business within the State of California as the proposed regulations only affect the internal management of CDCR prisons.

Significant Adverse Economic Impact on Business

The Department has determined that the proposed regulations will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination. The proposed regulations only affect the internal management of CDCR prisons, and place no requirements or restrictions on businesses.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The Department has determined that the proposed regulations will have no impact on the health and welfare of California residents, worker safety, or the State's environment as the proposed regulations only affect the internal management of CDCR prisons.

DETERMINATIONS

The Department has determined that no reasonable alternatives to the proposed regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

The Department has determined that the proposed regulations impose no mandates on local agencies or school districts, or a mandate which requires reimbursement Part 7 (Section 17561) of Division 4.

BENEFITS OF THE REGULATIONS

The proposed regulations will bring the Department into compliance with the *Quine v. Beard* settlement agreement and subsequent recommendations by the court. By authorizing transgender inmates and inmates having symptoms of gender dysphoria to wear the state-issued clothing that corresponds to their gender identities and creating a standardized list of authorized personal property items that may be possessed by identified inmates, the Department will ensure that the property privileges of transgender inmates and inmates having symptoms of gender dysphoria are clearly stated and that further litigation against the Department will be minimized, which will save the State legal costs.

DOCUMENTS RELIED UPON

The Department, in proposing amendments to these regulations, has relied upon the following: the settlement agreement for *Quine v. Beard*, Case Number C 14-02726 JST, entitled "Joint Notice of Settlement Agreement," dated August 7, 2015, and the subsequent court recommendations entitled "Order Regarding Implementation of Settlement," dated June 9, 2016; "Policy Review and Development Guide: Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings," Second Edition, published by the National Institute of Corrections in 2015; CDCR COMPSTAT reports for 2015 (<http://www.cdcr.ca.gov/COMPSTAT/>); "Where The Margins Meet: A Demographic Assessment of Transgender Inmates in Men's Prisons," published by the University of California, Irvine on June 10, 2009 (<http://ucicorrections.seweb.uci.edu/files/2013/06/A-Demographic-Assessment-of-Transgender-Inmates-in-Mens-Prisons.pdf>); "Transgender Inmates in California's Prisons: An Empirical Study of a Vulnerable Population," a presentation given by the Center for Evidence-Based Corrections of the University of California, Irvine on April 8, 2009

(<http://ucicorrections.seweb.uci.edu/2009/04/14/transgender-inmates-in-californias-prisons-an-empirical-study-of-a-vulnerable-population/>); “The Problem of Gangs and Security Threat Groups (STG’s) in American Prisons and Jails Today: Recent Findings from the 2012 NGCRC National Gang/STG Survey” by George W. Knox, Ph.D, Executive Director of the NGCRC (<http://nicic.gov/library/027017>); Merriam-Webster Dictionary, electronically published in 2017 (<https://www.merriam-webster.com/dictionary/transgender>, <https://www.merriam-webster.com/dictionary/gender%20dysphoria>, and <https://www.merriam-webster.com/dictionary/gender%20identity>); “Transgender People, Gender Identity and Gender Expression” electronically published by the American Psychiatric Association in 2017 (<http://www.apa.org/topics/lgbt/transgender.aspx> and <http://www.apa.org/topics/lgbt/transgender.aspx>); and “Transgender Terminology,” electronically published by the National Center for Transgender Equality on January 15, 2014 (<http://www.transequality.org/issues/resources/transgender-terminology>).