



Department of Corrections and Rehabilitation

**NOTICE OF CHANGE TO REGULATIONS**  
Sections: 3043.7, 3044 and 3371.1

**Number:**  
18-06

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**Publication Date:**  
July 6, 2018

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**Effective Date:**  
January 1, 2018

**INSTITUTION POSTING AND CERTIFICATION REQUIRED**

This Notice announces the Department's proposed rulemaking action to amend sections 3043.7 and 3044, and repeal and re-adopt section 3371.1, of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR, provisions concerning Special Assignments, Inmate Work Groups and Privilege Groups and Computation of Term and Credit.

**IMPLEMENTATION:** January 1, 2018

**PUBLIC COMMENT PERIOD**

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation (CDCR), Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, or by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Written comments, including those sent by mail, or e-mail to the addresses listed under Contact Person in this Notice, must be postmarked or received no later than 5:00 p.m. on August 24, 2018.

**PUBLIC HEARING INFORMATION**

A public hearing regarding these proposed regulations will be held on **August 24, 2018 from 10:00 a.m. to 11:00 a.m. in Conference Room 100N, located at 1515 S Street, North Building, Sacramento, CA 95811.** The purpose of the hearing is to receive verbal 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 comments submitted during the prescribed comment period are given the same significance and weight as verbal 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 not later than five calendar days after receipt. 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. CDCR Form 621-A (Rev. 04/18), Certification of Posting, shall be returned to the RPMB electronically or by mail. See Department Operations Manual Sections 12010.12.1 and 12010.12.2 for posting and certification of posting procedures.

**CONTACT PERSON**

Inquiries regarding this Notice should be directed to Y. Sun, Chief, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone 1-916-445-2269 or e-mail [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations may be directed to K. Henderson, Correctional Counselor III, Classification Services Unit, at 1-916-322-6783.

*/Original Signed by/*

SCOTT KERNAN  
Secretary  
California Department of Corrections and Rehabilitation

Attachments

**NOTICE OF PROPOSED REGULATIONS**

**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 or Department), pursuant to the authority granted by Article 1, Section 32 of the California Constitution, Government Code Section 12838.5, Penal Code section 5055, and the rulemaking authority granted by Penal Code sections 5058 and 5058.3, in order to implement, interpret and make specific Penal Code section 5054, proposes to amend sections 3043.7 and 3044 and repeal and re-adopt section 3371.1 of the California Code of Regulations (CCR), Title 15, Division 3, regarding Special Assignments, Inmate Work Groups and Privilege Groups and Computation of Term and Credit.

**PUBLIC HEARING:**

**Date and Time:** August 24, 2018- 10:00 a.m. to 11:00 a.m.

**Place:** Department of Corrections and Rehabilitation  
Conference Room 100N  
1515 S Street – North Building  
Sacramento, CA 95811

**Purpose:** To receive comments about this action.

**PUBLIC COMMENT PERIOD:**

The public comment period will close **August 24, 2018 at 5:00 p.m.** Any person may submit public comments in writing (by mail 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, or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

**CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Y. Sun, Chief  
Regulation and Policy Management Branch  
California 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:

**L. Lomonaco, Correctional Counselor II  
Regulation and Policy Management Branch  
Telephone (916) 445-2217**

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

**K. Henderson, Correctional Counselor III  
Classification Services Unit  
California Department of Corrections and Rehabilitation  
Telephone (916) 322-6783**

## **AUTHORITY AND REFERENCE:**

Subdivision (b) of Section 32 of Article 1, of the California Constitution authorizes the Secretary to prescribe and amend regulations for the administration of credit earning programs.

Penal Code 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.

Penal Code 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.

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

Penal Code section 5058 authorizes the Director (now Secretary) to prescribe and amend regulations for the administration of prisons.

Penal Code section 5058.3 provides that an emergency adoption, amendment, or repeal of a regulation by the Director (now Secretary) shall be conducted pursuant to Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Currently, regulations concerning special assignments, inmate work groups and privilege groups, and computation of term and credit provide guidance to staff and inmates regarding decisions affecting inmate housing, custody, privileges, and methods of computing terms and applying credit to an inmate's term.

In this regulatory action, the Secretary proposes to amend regulatory provisions pertaining to special assignments, inmate work groups and privilege groups, and computation of term and credit.

This action provides the following:

- Clarifies the procedures for assigning inmates to special assignments, work groups and privilege groups, as well as describe how short term and long term medical hospitalizations, psychiatric inpatient hospitalizations, and unassigned statuses impact assignments to work groups.
- Implements a process to award Good Conduct Credit to inmates who are granted Minimum A or Minimum B Custody, inmates who have completed the requisite training to be assigned as firefighters at fire camps, institutional firefighters, and inmates who are placed at fire camps for assignment to non-firefighter positions.
- Improves the accuracy of term calculations and credit calculations for every inmate serving a determinate or an indeterminate term, as well as more accurately responds to inmate grievances and court inquiries.
- Specifies the credit earning eligibility of inmates placed in segregated housing in accordance with Penal Code section 2933.6.

## **FORMS INCORPORATED BY REFERENCE:**

No forms incorporated.

**SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:**

The Department has determined that the proposed regulations may have a positive impact on public safety, the health and welfare of California’s residents, worker safety, the State’s environment, and on inmates by appropriately awarding Good Conduct Credit to inmates for their good behavior and improving the accuracy of inmate release date calculations in light of credits awarded for their good behavior. The proposed regulations will also benefit inmates and interested members of the public who wish to understand the Department’s calculations, how credits are applied, and how release dates are determined.

**EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING LAWS/REGULATIONS:**

The Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has determined these proposed regulations are not inconsistent or incompatible with existing regulations within CCR, Title 15, Division 3.

**LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code sections 17500 through 17630.

**FISCAL IMPACT STATEMENT:**

<b>Cost to any local agency or school district that is required to be reimbursed:</b>	<i>none</i>
<b>Cost or savings to any state agency:</b>	<i>none</i>
<b>Other nondiscretionary cost or savings imposed on local agencies:</b>	<i>none</i>
<b>Cost or savings in federal funding to the State:</b>	<i>none</i>

**EFFECT ON HOUSING COSTS:**

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

**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.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:**

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

**EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations will not affect small businesses and that this action has no significant adverse economic impact on small businesses because they are not affected by the internal management of State prisons.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT:**

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, or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no effect on

worker safety or the state's environment because the proposed regulations relate strictly to the internal management of State prisons.

The Department has determined that the proposed regulations may have a positive impact on public safety for California residents and inmates by ensuring that inmates are appropriately awarded Good Conduct Credit and improve the accuracy of inmate release date calculations.

**CONSIDERATION OF ALTERNATIVES:**

The Department has determined 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 invited to present statements or arguments with respect to any alternatives at the scheduled public hearing or during the written comment period.

**AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared and will make available 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 Regulations will also be made available on the Department's website at <http://www.cdcr.ca.gov>.

**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.

**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 contact person.

## **INITIAL STATEMENT OF REASONS**

The California Department of Corrections and Rehabilitation (CDCR or department) proposes to amend California Code of Regulations (CCR), Title 15, Division 3, sections 3043.7 and 3044, as well as repeal and re-adopt new section 3371.1.

Article I, Section 32 of the California Constitution provides CDCR with the authority to award credit to inmates based on rehabilitative principals and requires CDCR adopt regulations in furtherance of that authority. Accordingly, CDCR promulgated CCR, Title 15, Division 3, section 3043.2 effective May 1, 2017.

These proposed regulations establish new “Work Group M,” a designation to be used by CDCR classification committees for all inmates earning two days of credit for every day of incarceration (66%) due to their assignment to Minimum A or Minimum B Custody, and amend existing “Work Group F,” a designation to be used by CDCR classification committees for all inmates serving as firefighters and in other critical non-firefighting assignments within fire camps.

The proposed regulations also specify how short term medical or psychiatric inpatient hospitalizations, temporary or long term medical or psychiatric treatment categories, medically disabled status, medical or psychiatric special assignments, and on-the-job injuries which exclude inmates from continued assignments as firefighters or in non-firefighting assignments within fire camps all impact assignments to work groups.

When these proposed regulations make reference to a “classification committee” this is meant to include all of the following: Initial Classification Committees, Unit Classification Committees, Security Threat Group Unit Classification Committees, and Institution Classification Committees. In other words, each of these classification committees may perform the functions that are described within these proposed regulations.

Also, CDCR proposes to amend California Code of Regulations, title 15, section 3371.1, entitled “Computation of Term and Credit,” by revising portions of the existing text that are no longer relevant following adoption of the new Good Conduct Credit scheme on May 1, 2017, and by adding provisions that are necessary given the complexity of calculating an inmate’s term of incarceration under California’s sentencing laws. This complexity is further exacerbated by numerous appellate and Supreme Court decisions that have been published over the years that further refine and interpret California’s sentencing statutes.

California’s sentencing laws make credit application and calculation of an inmate’s term a complicated process. These proposed regulations will assist department staff who perform credit and term calculations by ensuring that they have a common understanding of key words and phrases and by providing more transparency to inmates and members of the public who seek to understand credit and sentence calculations. Finally, these regulations capture relevant rulings from several court cases regarding the computation of terms and credit. By including these important court decisions here the department can better ensure they will be applied consistently and uniformly.

### **Anticipated Benefits of the Regulations**

CDCR has determined that the proposed regulations may have a positive impact on public safety, the health and welfare of California's residents, worker safety, the State's environment, and on inmates by appropriately awarding Good Conduct Credit to inmates for their good behavior and improving the accuracy of inmate release date calculations in light of credits awarded for their good behavior. The proposed regulations will also benefit inmates and interested members of the public who wish to understand the department's calculations, how credits are applied, and how release dates are determined.

### **Economic Impact Assessment**

In accordance with Government Code section 11346.3, subdivision (b), CDCR has made the following assessments regarding the proposed regulations:

#### **No Significant Adverse Economic Impact on Business**

The CDCR has made an initial determination 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 CDCR's initial determination. The proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

#### **No Creation of New Jobs or Elimination of Existing Jobs**

CDCR has determined that the proposed regulations will not have an impact on the creation of new jobs or the elimination of existing jobs within California as the proposed regulations affect the internal management of prisons only.

#### **No Creation of New Businesses or Elimination or Expansion of Existing Businesses**

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

### **Consideration of Alternatives**

CDCR has determined 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.

CDCR has made an initial determination that no reasonable alternatives to the regulations have been identified or brought to the attention of the department that would lessen any adverse impact on small businesses.

Currently, no reasonable alternatives have been brought to the attention of CDCR that would alter the department's initial determination.

**Local Mandates**

CDCR has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

**Documents Relied Upon**

In proposing these regulations, the department relied upon the following documents:

*Armstrong v. Brown* Remedial Plan

[http://www.cdcr.ca.gov/OACC/docs/ARP1\\_1\\_3\\_01.pdf](http://www.cdcr.ca.gov/OACC/docs/ARP1_1_3_01.pdf)



## **Specific Purpose and Rationale for Each Section (per Government Code section 11346.2(b)(1))**

### **Section 3043.7. Special Assignments.**

#### **Subsection 3043.7(a) is unchanged but shown as reference.**

**Subsection 3043.7(a)(1) is amended** to improve grammar within this subsection and remove a redundant reference to an inmate advisory council.

**Subsection 3043.7(a)(2) is amended** to improve grammar within this subsection and remove a redundant reference to a pre-release program.

**Subsection 3043.7(a)(3) is amended** to improve grammar within this subsection. This subsection is also amended to replace a reference to a Reentry Hub assignment to reentry program assignment, because reentry programming has been expanded to all departmental institutions within California and is no longer limited to select institutions with Reentry Hubs.

**Subsection 3043.7(b) is amended** to add “short term” to the title of the subsection, because this subsection pertains, in part, to inmates needing short term medical hospitalization. This subsection is further amended to replace a reference to “psychiatric” staff with “mental health” staff, because “mental health” is the general adjective that the department currently uses to refer to staff that provide mental health services to inmates. This change is also necessary, because mental health staff, in addition to medical staff, is authorized to determine that inmates are in need of short-term inpatient care of 29 calendar days or less. This subsection is also amended to authorize mental health clinicians to refer inmates requiring periods of inpatient care beyond 29 calendar days to classification committees for reviews. This change is necessary, due to the expansion of mental health care services to the inmate population, because mental health clinicians are qualified to make such determinations and referrals, and limiting such authorities to physicians and psychiatrists is no longer practical within the department.

**Subsection 3043.7(b)(1) is amended** to improve grammar within this subsection. This subsection is further amended to require standard assignment of a general population inmate to Work Group A-2, effective the thirtieth calendar day of un-assignment. This change is necessary to clarify that calendar days rather than working days are utilized in this counting rule and ensure consistent statewide application. This subsection is also amended to refer to, via cross references to subsections 3044(b)(4) and 3044(b)(8), exceptional circumstances under which standard assignment of an inmate to Work Group A-2, effective the thirtieth calendar day of un-assignment does not apply, and assignment to Work Group C or Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3043.7(b)(2) is amended** to improve grammar within this subsection. This subsection is further amended to require standard re-assignment of an inmate on Short Term Medical or Psychiatric Inpatient Hospitalization status and assigned to Work Group F or Work Group M who is placed in segregated housing to Work Group D-1, effective the first day of placement into Administrative Segregation. This subsection is also amended to refer to, via cross references to subsections 3044(b)(6), 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), and 3044(b)(8)(F), exceptional

circumstances under which standard assignment of such an inmate to Work Group D-1, effective the first day of placement into Administrative Segregation does not apply, and assignment to Work Group D-2, Work Group F, or Work Group M is required. These changes are necessary to ensure understanding amongst staff and consistency of statewide application, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3043.7(b)(3) is amended** to improve grammar within this subsection.

**Subsection 3043.7(c) is amended** to improve grammar within this subsection. This subsection is also amended to authorize mental health clinicians to specify an anticipated date that an inmate medically unassigned for psychiatric reasons may return to work. This change is necessary, due to the expansion of mental health care services to the inmate population, because mental health clinicians are qualified to make such determinations, and limiting such authority to physicians and psychiatrists is no longer practical within the department.

**Subsection 3043.7(c)(1) is amended** to improve grammar within this subsection. This subsection is further amended to require standard re-assignment of an inmate to Work Group A-2, effective the thirtieth calendar day of medical or psychiatric un-assignment. This change is necessary to clarify that calendar days rather than working days are utilized in this counting rule and ensure consistent statewide application. This subsection is also amended to refer to, via cross references to subsections 3044(b)(4) and 3044(b)(8), exceptional circumstances under which standard re-assignment of an inmate to Work Group A-2, effective the thirtieth calendar day of un-assignment does not apply, and assignment to Work Group C or Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3043.7(c)(2) is amended** to improve grammar within this subsection. This subsection is further amended to require standard re-assignment of an inmate on Long Term Medical or Psychiatric Unassigned Status and assigned to Work Group F or Work Group M who is placed in segregated housing to Work Group D-1, effective the first day of placement into Administrative Segregation. This subsection is also amended to refer to, via cross references to subsections 3044(b)(6), 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), and 3044(b)(8)(F), exceptional circumstances under which standard assignment of such an inmate to Work Group D-1, effective the first day of placement into Administrative Segregation does not apply, and assignment to Work Group D-2, Work Group F, or Work Group M is required. These changes are necessary to ensure understanding amongst staff and consistency of statewide application, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3043.7(c)(3) is amended** to replace a reference to a lockup unit with “segregated housing,” because segregated housing is a more formal term for this type of inmate housing.

**Subsection 3043.7(d) is amended** to improve grammar within this subsection. This subsection is also amended to replace the word “psychiatric” with the word “mental health,” because “mental

health” is the general adjective that the department currently uses when referring to this type of inmate health care service.

**Subsection 3043.7(d)(1) is amended** to improve grammar within this subsection. This subsection is further amended to replace references to psychiatric staff with mental health staff, because mental health is the general adjective that the department currently uses to refer to staff that provide mental health services to inmates. This subsection is also amended to authorize mental health staff to document the nature, severity, and expected duration of inmates’ disability related limitations on CDC Forms 128-C. This change is necessary, because mental health staff is qualified to make and document such determinations.

**Subsection 3043.7(d)(2) is unchanged but shown as reference.**

**Subsection 3043.7(d)(2)(A) is amended** improve grammar within this subsection. This subsection is further amended to refer to, via a cross reference to subsection 3044(b)(8), exceptional circumstances under which standard assignment of an inmate on temporary medical or psychiatric un-assignment for less than six months to Work Group A-2 does not apply, and assignment to Work Group M is required. This subsection is also amended to refer to, via cross reference to subsection 3044(b)(8), exceptional circumstances under which a classification committee still cannot assign an inmate due to his or her impairment, and standard assignment of the inmate on medical or psychiatric un-assignment for six months to Work Group A-1, retroactive to the first day of temporary medical or psychiatric un-assignment does not apply, and assignment to Work Group M is required. These changes are necessary to ensure understanding amongst staff and consistency of statewide application, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3043.7(d)(2)(B) is amended** to refer to, via a cross reference to subsection 3044(b)(8), exceptional circumstances under which standard assignment of an inmate placed on medically disabled status to Work Group A-1 does not apply, and assignment to Work Group M is required. These changes are necessary to ensure understanding amongst staff and consistency of statewide application, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3043.7(e) is amended** to improve grammar within this subsection.

**Subsection 3043.7(e)(1) is unchanged but shown as reference.**

**Subsection 3043.7(e)(1)(A) is amended** to replace the word “psychiatric” with the word “mental health” when referring to the evaluation of an inmate, because “mental health” is the adjective that the department currently uses when describing such evaluations.

**Subsections 3043.7(e)(1)(B) and 3043.7(e)(1)(B)1 are unchanged but shown as reference.**

**Subsection 3043.7(e)(1)(B)2 is amended** to add reference to a classification committee being required to refer an inmate’s case back to a medical or mental health department of an institution when disagreeing with the department’s evaluation that the inmate is eligible for light duty designation. This change is necessary for the sake of clarity, to ensure that a classification committee is referring the inmate’s case to the applicable department at the institution that made the light duty designation. This subsection is further amended to remove the adjective “medical,” where referring

to the second evaluation of the inmate's light duty designation, resulting in a general reference to a second evaluation. This change is necessary to ensure clarity that the second evaluation will be completed by the same department of the institution, either medical or mental health, which completed the original evaluation.

**Subsection 3043.7(e)(2) is amended** to improve grammar within this subsection. This subsection is also amended to introduce the method of processing for inmates who are ill or otherwise require a medical or psychiatric lay-in or un-assignment for 29 calendar days or less. This change is necessary to clarify that calendar days rather than working days are utilized in this counting rule and ensure consistent statewide application of this process.

**Subsection 3043.7(e)(2)(A) is amended** to improve grammar within this subsection. This subsection is further amended to replace a reference to psychiatric staff with mental health staff, because "mental health" is the general adjective that the department currently uses to refer to staff that provide mental health services to inmates. This change is also necessary, because mental health staff in addition to medical staff is authorized to approve short-term lay-ins and un-assignments of 29 calendar days or less and document the reasons for such decisions.

**Subsection 3043.7(e)(2)(B) is unchanged but shown as reference.**

**Subsection 3043.7(e)(2)(C) is amended** to improve grammar within this subsection. This subsection is also amended to replace a reference to psychiatric staff with mental health staff, because "mental health" is the general adjective that the department currently uses to refer to staff that provide mental health services to inmates. This subsection is further amended to require that mental health staff, who determines an inmate should continue on a lay-in or unassigned status for more than 29 calendar days, shall refer the case to a classification committee for review. This change is necessary to clarify that calendar days rather than working days are utilized in this counting rule and ensure consistent statewide application of this process.

**Subsection 3043.7(e)(2)(D) is amended** to improve grammar within this subsection.

**Subsection 3043.7(f) is amended** to refer to, via cross references to subsections 3044(b)(1) and 3044(b)(8), exceptional circumstances under which standard reversion of an injured inmate from Work Group F to Work Group A-1, effective on the date the chief medical officer determines the on-the-job injury excludes the inmate from conservation camp placement or from placement as a firefighter at a CDCR firehouse, providing the chief medical officer's exclusion determination is within 29 calendar days following the date of the inmate's removal from the conservation camp or firehouse firefighter assignment does not apply, and assignment to Work Group M is required. This subsection is additionally amended to refer to, via cross references to subsections 3044(b)(1) and 3044(b)(8), exceptional circumstances under which standard reversion of an injured inmate from Work Group F to Work Group A-1, effective the 30<sup>th</sup> calendar day following the inmate's removal from the conservation camp or firehouse firefighter assignment, if the chief medical officer's exclusion determination is not within 29 calendar days following the date of the inmate's removal from the conservation camp or firehouse firefighter assignment, does not apply and assignment to Work Group M is required. These changes are necessary to clarify that calendar days rather than working days are utilized in these counting rules and ensure consistent statewide application of these processes. These changes are also necessary to specify how an injured firehouse firefighter inmate's work group shall be impacted, due to an on-the-job injury that excludes the inmate from continued firehouse firefighter assignment and requires removal from the position. These clarifications are

necessary, because firehouse firefighter inmates normally qualify for Work Group F pursuant to subsection 3044(b)(7)(A). These changes are additionally necessary to ensure understanding amongst staff and consistency of statewide application, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3043.7(g) is amended** to improve grammar within this subsection. This subsection is also amended to refer to, via cross reference to subsection 3044(b)(8), exceptional circumstances under which standard assignment of an inmate assigned to category “H,” “I,” or “N,” who is not capable of performing a work or training assignment, to Work Group A-1 does not apply, and assignment to Work Group M is required. This change is necessary to ensure understanding amongst staff and consistency of statewide application, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3043.7(h) is amended** to improve grammar within this subsection. This subsection is also amended to replace reference to the Department of Mental Health with the Department of State Hospitals, because the Department of Mental Health transitioned to the Department of State Hospitals in 2012.

#### **Section 3044. Inmate Work Groups and Privilege Groups.**

**The title for section 3044 is amended** to add the language of inmate Privilege Groups, because subsections 3044(c) through 3044(j)(4) pertain to inmate Privilege Groups.

**Subsection 3044(a) is unchanged but shown as reference.**

**Subsection 3044(a)(1) is amended** to improve grammar within this subsection.

**Subsection 3044(a)(2) is amended** to improve grammar within this subsection.

**Subsection 3044(b) is amended** to improve grammar within this subsection.

**Subsection 3044(b)(1) is amended** to improve grammar within this subsection. This subsection is also amended to refer to, via cross references to subsections 3044(b)(7) and 3044(b)(8), exceptional circumstances under which standard assignment of an inmate willing and able to perform an assignment on a full-time basis to Work Group A-1 does not apply, and assignment to Work Group F or Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3044(b)(1)(A) is amended** to improve grammar within this subsection. This subsection is further amended to refer to, via a cross reference to subsection 3044(b)(8), exceptional circumstances under which standard assignment of an inmate in a rehabilitative program to Work Group A-1 does not apply, and assignment to Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3044(b)(1)(B) is amended** to improve grammar within this subsection. This subsection is further amended to refer to, via a cross reference to subsection 3044(b)(8), exceptional circumstances under which standard assignment of an inmate in a combination of half-time work assignment and any rehabilitative program to Work Group A-1 does not apply, and assignment to Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3044(b)(1)(C) is amended** to improve grammar within this subsection.

**Subsection 3044(b)(1)(D) is amended** to improve grammar within this subsection. This subsection is also amended to authorize mental health clinicians to diagnose inmates as being totally disabled and incapable of performing assignments. This change is necessary, due to the expansion of mental health care services to the inmate population, because mental health clinicians are qualified to make such determinations, and limiting such diagnostic authority to physicians and psychiatrists is no longer practical within the department. This subsection is further amended to refer to, via cross references to subsections 3044(b)(4), 3044(b)(5), 3044(b)(6), and 3044(b)(8), exceptional circumstances under which standard assignment of a totally disabled inmate to Work Group A-1 does not apply, and assignment to Work Group C, Work Group D-1, Work Group D-2, or Work Group M is warranted. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3044(b)(1)(E) is amended** to authorize mental health clinicians to diagnose inmates as being partially disabled and require such inmates to be assigned to an assignment within the mental capabilities of the inmates as determined by the mental health clinicians except when changed by disciplinary actions. This change is necessary, due to the expansion of mental health care services to the inmate population, because mental health clinicians are qualified to make such determinations, and limiting such diagnostic authority to physicians and psychiatrists is no longer practical within the department.

**Subsection 3044(b)(2) is amended** to improve grammar within this subsection. This subsection is further amended to refer to, via a cross reference to subsection 3044(b)(8), exceptional circumstances in which standard assignment of an inmate willing but unable to perform in an assignment to Work Group A-2 does not apply, and assignment to Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsections 3044(b)(2)(A) and 3044(b)(2)(B) are unchanged but shown as reference.**

**Subsection 3044(b)(3) is amended** to improve grammar within this subsection. This subsection is further amended to refer to, via a cross reference to subsection 3044(b)(8), exceptional circumstances in which standard assignment of an inmate willing and able to perform an assignment on a half-time basis to Work Group B does not apply, and assignment to Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3044(b)(4) is unchanged but shown as reference.**

**Subsection 3044(b)(4)(A) is amended** to improve grammar within this subsection. This subsection is also amended to emphasize that a classification committee has the discretion to deem an inmate a program failure as defined in section 3000 and assign Work Group C. Pursuant to section 3000, program failure means any inmate who generates a significant disciplinary history within the last 180 days from the current date. A guilty finding for two serious Rules Violation Reports (RVRs) or one serious and two administrative RVRs within that 180 day time period is reasonable evidence of a significant disciplinary history and may be considered a program failure. An example of an inmate qualifying for designation as a program failure by a classification committee is an inmate found guilty of a Division D RVR for Fighting and a Division F RVR for Refusal to Work within 180 days of the classification committee. This change is necessary to ensure understanding amongst inmates and staff that a classification committee has the authority to deem an inmate a program failure as defined in section 3000 and assign an inmate to Work Group C. This subsection is additionally amended, consistent with section 2932 of the California Penal Code, to limit the assignment of Work Group C to the number of disciplinary credits forfeited for the serious rule violation(s) or 180 days, whichever is less. This change is warranted to ensure understanding amongst inmates and staff regarding the limit by which Work Group C may be imposed by a classification committee. This change is therefore also necessary to ensure that inmates are not assigned Work Group C for a longer period of time than is authorized by the Penal Code. This subsection is further amended to refer to exceptional circumstances in which standard assignment of an inmate to Work Group C does not apply, and assignment to Work Group D-2 applies, due to the inmate's placement in segregated housing. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3044(b)(4)(B) is amended** to improve grammar within this subsection. This subsection is also amended to limit the amount of time by which an inmate assigned to Work Group C shall forfeit Good Conduct Credit to the number of disciplinary credits forfeited or 180 days, whichever is less. This change is necessary to ensure understanding amongst inmates and staff regarding credit forfeiture under Work Group C status. The 180 day limit is mandated by section 2932 of the California Penal Code. This change is therefore necessary to ensure that inmates are not assigned zero credit earning Work Group C for a longer period of time than is authorized by the Penal Code. This subsection is further amended to refer to exceptional circumstances in which an inmate shall not revert to his or her previous work group upon completion of the time assigned to Work Group C. These exceptional circumstances apply when the inmate no longer qualifies for assignment to Work Group F or Work Group M due to the totality of their case factors (factors which are specific to each inmate such as criminal history, release date, administrative determinants, disciplinary history, placement score, level of custody, etc.). An example of a change in case factors that would disqualify an inmate from reverting to Work Group F or Work Group M upon completion of the time assigned to Work Group C is an inmate who elevated his placement score from a Level I range (which requires less secure housing) to a Level IV range (which requires more secure housing) due to being assessed points on a CDCR Reclassification Score Sheet for numerous guilty findings for serious Rules Violation Report pursuant to subsections 3375.1(a)(1), 3375.1(a)(4), and 3375.4(b). This amendment clarifies that under such exceptional circumstances, the inmate shall be assigned to another work group in accordance with section 3044. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As

such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3044(b)(5) is amended** to improve grammar within this subsection. This subsection is further amended to refer to, via cross references to subsections 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), and 3044(b)(8)(F), exceptional circumstances in which standard assignment of an inmate assigned to a segregated housing program to Work Group D-1 does not apply, and assignment to Work Group F or Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3044(b)(5)(A) is amended** to improve grammar within this subsection.

**Subsection 3044(b)(5)(B) is amended** to improve grammar within this subsection.

**Subsection 3044(b)(5)(C) is amended** to improve grammar within this subsection.

**Subsection 3044(b)(5)(D) is amended** to improve grammar within this subsection.

**Subsection 3044(b)(6) is amended** to remove the requirement that an inmate placed in a Security Housing Unit (SHU), Psychiatric Services Unit (PSU), or Administrative Segregation Unit (ASU) following the commission of any serious rule violation shall not be awarded Good Conduct Credit for a period not to exceed the number of disciplinary credits forfeited. This change is made in order to fulfill the legislative mandate of California Senate Bill 759. On August 25, 2016, the Governor approved Senate Bill 759. Senate Bill 759 repealed and adopted section 2933.6 of the Penal Code. Section 2933.6 of the Penal Code requires the department to establish regulations to allow specified inmates placed in segregated housing to earn credits pursuant to sections 2933 or 2933.05 of the Penal Code, or otherwise specified in regulation, during the time that they are placed in segregated housing. This change expands credit earning opportunities for inmates placed in segregated housing in accordance with the legislative intent of Senate Bill 759.

**Subsection 3044(b)(6)(A) is amended** to specify the criteria and limits by which zero credit earning Work Group D-2 shall be assigned by classification committees and inmates may be assigned credit earning Work Group D-1 thereafter, while retained in segregated housing, in accordance with section 3044(b)(5). These changes are necessary to fulfill the legislative mandate of California Senate Bill 759 (2016) and section 2933.6 of the Penal Code. This amendment limits the assignment of Work Group D-2 to inmates serving imposed Security Housing Unit (SHU) terms in segregated housing pursuant to section 3341.9(e). This change is necessary, because SHU assessable RVRs represent the greatest threats to the safety and security of the institutions, public, staff, and other inmates. Examples of SHU assessable RVRs include, but are not limited to: Murder of a Non-Inmate, Attempted Murder of an Inmate, Rape of a Non-Inmate, Battery on an Inmate with a Weapon Capable of Causing Serious or Mortal Injury, and Possession of an Explosive Device. Given the serious threats that such RVRs pose, imposition of zero credit earning Work Group D-2 is warranted to ensure the inmate serves a larger portion of his or her prison sentence that was imposed by the court and to protect the safety of the public. This change also precludes the assignment of Work Group D-2 for non-SHU assessable RVRs while an inmate is placed in segregated housing, except when Work Group D-2 is imposed due to a classification committee designating the inmate a program failure as defined in section 3000 and pursuant to section 3044(b)(6)(C). This change is necessary to reduce assignments of zero credit earning Work Group D-2 for non-SHU assessable



RVRs, when the totality of the inmate's recent disciplinary history does not warrant a program failure designation, and the inmate's misconduct does not pose a significant threat to the safety of the public, staff, and inmates. This amendment also specifies that the effective date that Work Group D-2 shall be imposed is the date of the RVR to ensure consistent application throughout the department. The date of the RVR is utilized as the effective date that Work Group D-2 shall be imposed to prevent the retroactive assignment of Work Group D-2. For example, an inmate who is placed in administrative segregation pending completion of an investigation into the suspected distribution of a controlled substance shall be initially assigned to Work Group D-1. The date of discovery of the RVR is the date that the department is notified that the test result was positive for a controlled substance. If the inmate is subsequently found guilty of a Division A-2 RVR for Distribution of a Controlled Substance, assignment to Work Group D-2 shall be effective the date of the RVR. This change therefore also facilitates the timely completion of investigations by staff and ensures due process rights of inmates. Unless the exceptional criteria specified in section 3044(b)(6)(B) are met, this amendment also limits the assignment of Work Group D-2 to the number of whole-day credits forfeited for the rule violation or 180 days, whichever is less, up to the Minimum Eligible Release Date (MERD) or the date the Institution Classification Committee (ICC) suspends the remainder of the SHU term. Pursuant to section 3000, MERD means a combination of months, followed by days which represent the minimum amount of time that must pass before a determinate SHU term expires. The MERD may be adjusted based upon subsequent serious misconduct. The 180 day limit is mandated by section 2932 of the California Penal Code. The limit for assignment of Work Group D-2 to the number of whole day-credits forfeited for the rule violation is also mandated by section 2932 of the California Penal Code. These changes are further necessary to ensure that inmates are not assigned zero credit earning Work Group D-2 for a longer period of time than is authorized by the Penal Code. This change also ensures the due process rights of inmates by precluding assignment of Work Group D-2 for an RVR for which a SHU term was imposed and the imposition of a credit loss was precluded pursuant to sections 3320(f) through 3320(f)(5). The inclusion of the Work Group D-2 limit to the MERD of the SHU term is necessary to ensure that an inmate's zero credit earning Work Group D-2 is not unreasonably extended past the date that the inmate is eligible to be released from segregated housing following service of the SHU term. Inclusion of the Work Group D-2 limit to the date that ICC suspends the remainder of the SHU term is necessary to ensure that an inmate's zero credit earning Work Group D-2 is not unreasonably extended past the date that ICC confirms that an inmate no longer poses a significant threat to the security of the institution by such action. This subsection is further amended to refer to, via a cross reference to section 3044(b)(6)(B), exceptional circumstances in which the standard 180 day limit for assignment of Work Group D-2 does not apply, and a 360 day limit for assignment of Work Group D-2 may apply, due to a guilty finding for a Division A-1 RVR which involved serious bodily injury on a non-prisoner. This subsection is additionally amended to state that upon completion of assignment to Work Group D-2, the inmate shall be re-evaluated by a classification committee for assignment to another work group. These changes are necessary to ensure that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. As such, this change also ensures the accuracy of inmate release date calculations and the safety of the public.

**Subsection 3044(b)(6)(B) is amended** to remove reference to the method by which an inmate's assignment to Work Group D-2 may be extended, in up to six month increments, in unusual cases where no other assignment can be made without causing a substantial risk of physical harm to staff or others. Removal of such reference is warranted, because this regulatory language serves little to no practical purpose. Inmates who demonstrate a substantial risk of physical harm to staff or others by committing additional SHU assessable RVRs are subject to assignment of additional periods of Work

Group D-2 pursuant to sections 3044(b)(6)(A) and 3044(b)(6)(B). Removal of this reference is also warranted, because inmates who meet the criteria for program failure while placed in segregated housing due to guilty findings for non-SHU assessable RVRs may be assigned Work Group D-2 by a classification committee pursuant to section 3044(b)(6)(C). This subsection is further amended to specify that an inmate serving an imposed SHU term pursuant to section 3341.9(e) in segregated housing due to a guilty finding for a Division A-1 RVR, which included serious bodily injury to a non-prisoner, shall be assigned Work Group D-2, effective the date of the RVR, for a period not to exceed the number of whole-day credits forfeited for the rule violation or 360 days, whichever is less, up to the Minimum Eligible Release Date or the date that that ICC suspends the remainder of the SHU term. This exception, whereby the maximum period of Work Group D-2 that may be imposed is 360 days, as compared to the standard 180 day limit that applies to other RVRs, is mandated by section 2932 of the California Penal Code. Inclusion of this exception is also necessary, because Division A-1 RVRs which include serious bodily injury to a non-prisoner represent the greatest threats to the safety of staff and the public. Examples of Division A-1 RVRs which include serious bodily injury to a non-prisoner include, but are not limited to: Murder of a Peace Officer, Attempted Murder of a Non-Inmate Resulting in Serious Bodily Injury, and Battery on a Peace Officer with a Deadly Weapon Resulting in Serious Bodily Injury. Given the serious threats that such RVRs pose, imposition of zero credit earning Work Group D-2 is warranted to ensure the inmate serves a larger portion of his or her prison sentence that was imposed by the court and to protect the safety of the public. This subsection is additionally amended to state that upon completion of assignment to Work Group D-2, the inmate shall be re-evaluated by a classification committee for assignment to another work group. This change is necessary to ensure that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors.

**Subsection 3044(b)(6)(C) is amended** to specify the criteria and limit for which zero credit earning Work Group D-2 may be assigned to an inmate who is deemed a program failure by a classification committee. An example of an inmate qualifying for designation as a program failure by a classification committee is an inmate found guilty of a Division D RVR for Fighting and a Division D RVR for Willfully Obstructing a Peace Officer in the Performance of Duty within 180 days of the classification committee. Assignment of such an inmate to Work Group D-2 is necessary to discourage serious misconduct amongst inmates placed in segregated housing. This subsection is further amended to state that this type of Work Group D-2 assignment applies to an inmate placed in any form of segregated housing and is not limited to inmates housed in ASU, SHU, and PSU. This change is necessary to ensure understanding amongst inmates and staff and consistent application throughout the department. This subsection is also amended to limit such assignment to Work Group D-2 to non-SHU assessable RVRs. This change is necessary to specify a separate method of assignment to Work Group D-2 for non-SHU assessable RVRs, because the method to assign an inmate to Work Group D-2 for a SHU assessable RVR is included within subsections 3044(b)(6)(A) and 3044(b)(6)(B). The 180 day limit for assignment of Work Group D-2 and Work Group C following release from segregated housing for non-SHU assessable RVRs is mandated by section 2932 of the California Penal Code. This change is necessary to ensure that inmates are not assigned zero credit earning Work Group D-2 for a longer period of time than is authorized by the Penal Code.

**Subsection 3044(b)(6)(D) is unchanged but shown as reference.**

**Subsection 3044(b)(7) is amended** to specify that Work Group F applies to inmates who are assigned Minimum B Custody and includes inmates placed in camps for non-firefighter assignments. This change is necessary, because Minimum B Custody is required to house an inmate in a camp

pursuant to section 3377.1(a)(7)(A). This change is also necessary, because inmates placed in camps for non-firefighting assignments perform critical support functions that help to sustain the camps and the firefighting inmates who are housed within camps. The assignment of Work Group F to non-firefighting camp inmates is warranted to incentivize inmate participation in the camp program amongst inmates who are ineligible to fight fires but possess other critical skills that are in demand at camps. Examples of such special skills include but are not limited to: wastewater treatment, small engine repair, chainsaw repair, cooking, and baking. This subsection is further amended to state that assignment to Work Group F awards Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) and 3043.2(b)(5)(C), to ensure transparency and understanding amongst the public, staff, and inmates regarding the positive impact that assignments to Work Group F may have on inmates' release dates due to their sustained good behavior and service to the public as firefighters or in non-firefighter assignments within camps.

**Subsection 3044(b)(7)(A) is amended** to specify criteria for the assignment to Work Group F for firefighting inmates. Assignment to Minimum B Custody is a criterion, because Minimum B Custody is required to house an inmate in a camp pursuant to section 3377.1(a)(7)(A) and to permit an inmate to perform program assignments off institutional grounds pursuant to section 3377.1(a)(7)(B). Successful completion of physical fitness training and firefighting training is also included as a criterion, because successful completion of this training is required prior to assignment as a firefighter. This subsection is amended to assign Work Group F upon completion of such training, to incentivize firefighter assignments amongst the inmate population with expedited awarding of Good Conduct Credit pursuant to sections 3043.2(b)(4)(B) and 3043.2(b)(5)(B). These changes are necessary to ensure consistent application throughout the department. Reference to the assignment of Work Group F to inmates assigned to Minimum A or Minimum B Custody who are statutorily eligible for day for day credit is deleted from subsection, due to the qualification of such inmates for assignment to Work Group M, pursuant to adopted sections 3044(b)(8) through 3044(b)(8)(G).

**Subsection 3044(b)(7)(B) is amended** to specify new criteria for the assignment to Work Group F for inmates placed in camps for non-firefighter assignments. Assignment to Minimum B Custody is a criterion, because Minimum B Custody is required to house an inmate in a camp pursuant to section 3377.1(a)(7)(A). This subsection is also amended to assign Work Group F for such inmates upon placement in a camp and to award Good Conduct Credit pursuant to sections 3043.2(b)(4)(C) and 3043.2(b)(5)(C) for those inmates who are performing a public service by utilizing their special skills in non-firefighting camp assignments. These changes are necessary to ensure consistent application throughout the department. Reference to the assignment of Work Group F for inmates assigned as firefighters is deleted from this subsection, because the criteria for such inmates' assignment to Work Group F is included within amended subsection 3044(b)(7)(A).

**Subsection 3044(b)(7)(C) is amended** to improve grammar within this subsection. This subsection is further amended to specify that inmates assigned to Work Group F who are found guilty of a rule violation involving use or possession of any unauthorized communication device or of any narcotic, drug, drug paraphernalia, controlled substance, alcohol, or other intoxicant as described within sections 3323(e), 3323(f), 3323(g), or 3323(h) shall be assigned to another work group. Pursuant to section 3043.2(a), the award of Good Conduct Credit requires that an inmate comply with the rules and regulations of the department, and the offenses listed above are serious violations of the department's rules, warranting re-assignment to another work group. The use of cell phones and other unauthorized communication devices pose significant threats to the security of the institutions, public, staff, and inmates, because inmates use such devices to conspire and commit felonies such as escapes, the introduction of controlled substances into institutions, and acts of violence. Furthermore,

given the prevalence of inmates in the department with criminogenic needs for substance use disorder treatment, the use, possession, and distribution of narcotics, drugs, drug paraphernalia, controlled substances, alcohol, and other intoxicants is counterproductive to the rehabilitative goals of the department and inmates. This change also ensures that inmates who are found guilty of such offenses shall be ineligible to receive Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) and 3043.2(b)(5)(C) to dis-incentivize these types of serious rule violations.

**Subsection 3044(b)(7)(D) is adopted** to require that inmates who are placed in segregated housing, designated non-disciplinary segregation (NDS) by ICC, and otherwise remain eligible for continued assignment to Work Group F shall continue to be assigned Work Group F for the duration of their non-disciplinary segregation. Pursuant to section 3335(a), NDS means temporary segregated housing placement for administrative reasons including, but not limited to: ASU placement for investigation of safety concerns not resulting from misconduct warranting an RVR, investigation not related to misconduct or criminal activity, being a relative or an associate of a prison staff member, and investigation related to being the victim of a Prison Rape Elimination Act (PREA) incident. This change prevents re-assignment to Work Group D-1 during NDS placement and ensures that such inmates continue to earn Good Conduct Credit associated with Work Group F, consistent with sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) and 3043.2(b)(5)(C) during such temporary placements. This change is necessary to ensure that inmates' periods of incarceration are not unjustly extended due to their NDS statuses.

**Subsection 3044(b)(7)(E) is adopted** to require that inmates initially assigned to Work Group D-1 by an ICC due to placement in segregated housing and who were not designated for non-disciplinary segregation by an ICC, otherwise eligible for the assignment to Work Group F pursuant to sections 3044(b)(7)(A) or 3044(b)(7)(B) during their periods of segregated housing, and were not found guilty of the serious rule violations which were the reasons for their segregated housing placements, shall be made whole by retroactive assignment to Work Group F beginning with the effective dates that Work Group D-1 was originally imposed and for the same number of days that they were assigned to Work Group D-1. This change is necessary to ensure that inmates' periods of incarceration are not unfairly extended due to loss of Good Conduct Credit when they are not found guilty of the RVRs which were the reason for their placements in segregated housing.

**Subsection 3044(b)(7)(F) is adopted** to require that an inmate assigned to Work Group F pursuant to section 3044(b)(7) for a cumulative period of twelve months or more on his or her current term of incarceration shall continue to earn Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) or 3043.2(b)(5)(C) upon transfer to an alternative custody setting as defined in section 3043(d). Pursuant to section 3043(d), alternative custody setting means transfer of an inmate, prior to parole, to serve the remainder of his or her term of incarceration in a community based re-entry facility administered by the department in lieu of confinement in a state prison or Department of Forestry and Fire Protection fire camp. This twelve month cumulative period of assignment to Work Group F is necessary to ensure a period of service as a firefighter or assignment to a non-firefighting camp position that includes at least one fire season so that the public receives a reasonable return on their investment to train inmates to fight fires and incentivize inmate placements in camps through the awarding of Good Conduct Credit. This change is also necessary to ensure that inmates do not forfeit continued awarding of Good Conduct Credit due to their transfers to alternative custody settings following their cumulative assignment to Work Group F for twelve months or more.

**Subsection 3044(b)(7)(G) is adopted** to introduce criteria for which an inmate who is wanted by an out-of-state law enforcement agency for a felony, wherein the agency will not extradite the inmate for prosecution of the felony, may be assigned Minimum B Custody and Work Group F. This change is necessary to ensure that inmates are not unreasonably denied Minimum B Custody, Work Group F, and Good Conduct Credit specified in sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) and 3043.2(b)(5)(C).

**Subsection 3044(b)(7)(G)1 is adopted** to establish a criterion that the inmate is wanted for a felony by an out-of-state law enforcement agency other than a Federal agency. Reference to the inmate being wanted by an out-of-state law enforcement agency is necessary to distinguish such a circumstance from being wanted by a California law enforcement agency. This distinction is important, because California law enforcement agencies routinely file detainers with the department to facilitate felony prosecutions of inmates, which call for denial of Minimum B Custody and Work Group F, due to a likelihood that the agencies will exercise the detainers and inmates will receive significant periods of consecutive incarceration that may tempt them to escape if they were continued with Minimum B Custody and housed in camps. Pursuant to section 3000, a detainer means a written document received from an official enforcement agent which indicates that an inmate is wanted by that office and the basis for the detainer. This criterion includes an exception for when an inmate is wanted for a felony by a Federal agency, because Federal agencies' abilities to prosecute inmates are not limited by state borders.

**Subsection 3044(b)(7)(G)2 is adopted** to establish a criterion that the out-of-state law enforcement agency does not have a detainer placed with the department for the felony. This criterion is necessary, because if an agency has a detainer placed with the department for a felony, denial of assignments to Minimum B Custody and Work Group F is warranted, due to the likelihood that the inmate will receive a significant period of consecutive incarceration that may tempt the inmate to escape if he or she was housed in a camp with Minimum B Custody.

**Subsection 3044(b)(7)(G)3 is adopted** to establish a criterion that the inmate's central file documents that the agency communicated to the department that they will not extradite the inmate for the purpose of prosecution of the felony. Pursuant to section 3000, a central file is the master file maintained by the department containing records regarding each person committed to its jurisdiction. This criterion is necessary, because if an agency has communicated to the department that they will not extradite the inmate for the purpose of prosecution of the felony, and this information is documented within the inmate's central file, it is not likely the agency will exercise a detainer and unlikely the inmate will receive a significant period of incarceration. Under such circumstances and with such supporting documentation, assigning the inmate Minimum B Custody and Work Group F may be appropriate.

**Subsection 3044(b)(7)(G)4 is adopted** to establish a criterion that the totality of the inmate's remaining case factors does not preclude the assignment of Minimum B Custody. This criterion is necessary, to ensure that the inmate has no case factors that would preclude assignment of Minimum Custody, pursuant to Article 10, "Classification," prior to granting the inmate such a level of custody in order to ensure the safety of the public, institution, staff, and other inmates.

**Subsection 3044(b)(8) is renumbered 3044(b)(9).**

**New subsection 3044(b)(8) is adopted** to establish Work Group M for inmates who are assigned Minimum A or Minimum B Custody or are otherwise eligible for Minimum Custody and who do not qualify for assignment to Work Group F. This subsection is also adopted to explicitly state that

assignment to Work Group M awards Good Conduct Credit pursuant to section 3043.2(b)(5)(A), to ensure transparency and understanding amongst the public, staff, and inmates regarding the positive impact that assignments to Work Group M may have on inmates' release dates due to their sustained good behavior and assignment to Minimum Custody. This change is necessary to incentivize positive programming amongst inmates who are Minimum Custody eligible but who do not qualify for assignment to firefighter or non-firefighting camp positions and Work Group F. This change is also necessary to establish a separate Work Group for those inmates who are Minimum Custody eligible but do not qualify for assignment to Work Group F and the Good Conduct Credit associated solely with Work Group F pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(B) and 3043.2(b)(5)(C). This change is further necessary to ensure Good Conduct Credit is awarded to inmates consistent with their case factors and the safety of the public through accurate calculations of inmate release dates.

**Subsection 3044(b)(8)(A) is adopted** to establish that effective January 1, 2018, an inmate assigned to Minimum A Custody or Minimum B Custody who does not qualify for assignment to Work Group F shall be assigned to Work Group M. The effective date of January 1, 2018 is utilized to ensure understanding amongst inmates and staff regarding when assignment to Work Group M shall be initiated within the department. This change is also necessary to ensure understanding amongst staff and inmates regarding the distinction between Work Group M and Work Group F, so that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. Retroactive assignment of Work Group M to May 1, 2017 is permitted, because May 1, 2017 was the date that Good Conduct Credit was introduced within the department. Retroactive assignment of Work Group M to May 1, 2017 is also necessary to ensure the safety of the public through accurate calculations of inmate release dates. Reference to the limit of the awarding of Good Conduct Credit as specified within subsection 3043(c) is stated within this subsection, to ensure understanding amongst the public, staff, and inmates regarding the limited effect that retroactive assignment to Work Group M shall have upon inmate release dates.

**Subsection 3044(b)(8)(B) is adopted** to establish that effective January 1, 2018, an inmate otherwise eligible for assignment to Minimum A Custody or Minimum B Custody whose eligibility for such assignment is limited solely due to their placement in the Mental Health Delivery Services System at the Enhanced Outpatient level of care or higher level and/or medical health status which requires additional clinical and custodial supervision as determined by an ICC, shall be assigned to Work Group M. The effective date of January 1, 2018 is utilized to ensure understanding amongst inmates and staff regarding when assignment to Work Group M shall be initiated within the department. This change is necessary to ensure understanding amongst staff and inmates regarding the criteria for assignment to Work Group M. The Enhanced Outpatient level of care is included as the threshold for limitation of assignment to Minimum A Custody and Minimum B Custody, because inmates at this level of care and higher require additional clinical and custodial supervision to ensure their safety and the safety of the public, staff, and other inmates than is available to inmates who are assigned to Minimum A or Minimum B Custody. This change is further necessary to ensure that inmates are not unfairly denied Good Conduct Credit specified within section 3043.2(b)(5)(A) and do not experience adverse impacts to their release dates solely due to mental health and/or medical conditions. Retroactive assignment of Work Group M to May 1, 2017 is permitted, because May 1, 2017 was the date that Good Conduct Credit was introduced within the department. Retroactive assignment of Work Group M to May 1, 2017 is also necessary to ensure the safety of the public through accurate calculations of inmate release dates. Reference to the limit of the awarding of Good Conduct Credit as specified within subsection 3043(c) is stated within this subsection, to ensure understanding

amongst the public, staff, and inmates regarding the limited effect that retroactive assignment to Work Group M shall have upon inmate release dates.

**Subsection 3044(b)(8)(C) is adopted** to introduce criteria for which an inmate who is wanted by an out-of-state law enforcement agency for a felony, wherein the agency will not extradite the inmate for prosecution of the felony, may be assigned Minimum A or Minimum B Custody and Work Group M. This change is necessary to ensure that inmates are not unreasonably denied Minimum A Custody, Minimum B Custody, Work Group M, and Good Conduct Credit consistent with section 3043.2(b)(5)(A), when it is not likely the agency will exercise a detainer and unlikely the inmate will receive a significant period of consecutive incarceration. Retroactive assignment of Work Group M to May 1, 2017 is permitted, because May 1, 2017 was the date that Good Conduct Credit was introduced within the department. Retroactive assignment of Work Group M to May 1, 2017 is also necessary to ensure the safety of the public through accurate calculations of inmate release dates.

**Subsection 3044(b)(8)(C)1 is adopted** to establish a criterion that the inmate is wanted for a felony by an out-of-state law enforcement agency other than a Federal agency. Reference to the inmate being wanted by an out-of-state law enforcement agency is necessary to distinguish such a circumstance from being wanted by a California law enforcement agency. This distinction is important, because California law enforcement agencies routinely file detainers with the department to facilitate felony prosecutions of inmates, which call for denial of Minimum A Custody, Minimum B Custody, and Work Group M, due to a likelihood that the agencies will exercise the detainers and inmates will receive significant periods of consecutive incarceration that may tempt them to escape if they were continued with Minimum A or Minimum B Custody. This criterion includes an exception for when an inmate is wanted for a felony by a Federal agency, because Federal agencies' abilities to prosecute inmates are not limited by state borders.

**Subsection 3044(b)(8)(C)2 is adopted** to establish a criterion that the out-of-state law enforcement agency does not have a detainer placed with the department for the felony. This criterion is necessary, because if an agency has a detainer placed with the department for a felony, denial of assignments to Minimum A Custody, Minimum B Custody, and Work Group M is warranted, due to the likelihood that the inmate will receive a significant period of consecutive incarceration that may tempt the inmate to escape if he or she was housed with Minimum A Custody or Minimum B Custody.

**Subsection 3044(b)(8)(C)3 is adopted** to establish a criterion that the inmate's central file documents that the agency communicated to the department that they will not extradite the inmate for the purpose of prosecution of the felony. Pursuant to section 3000, a central file is the master file maintained by the department containing records regarding each person committed to its jurisdiction. This criterion is necessary, because if an agency has communicated to the department that they will not extradite the inmate for the purpose of prosecution of the felony, and this information is documented within the inmate's central file, it is not likely the agency will exercise a detainer and unlikely the inmate will receive a significant period of incarceration. Under such circumstances and with such supporting documentation, assigning the inmate Minimum A Custody or Minimum B Custody and Work Group M may be appropriate.

**Subsection 3044(b)(8)(C)4 is adopted** to establish a criterion that the totality of the inmate's remaining case factors does not preclude the assignment of Minimum A Custody or Minimum B Custody or the inmate is otherwise eligible for assignment to such levels of custody as described in section 3044(b)(8)(B). This criterion is necessary, to ensure that the inmate has no case factors listed

within Article 10. Classification that would preclude assignment of Minimum Custody, other than those described within section 3044(b)(8)(B), prior to granting the inmate such a level of custody in order to ensure the safety of the public, institution, staff, and other inmates.

**Subsection 3044(b)(8)(D) is adopted** to specify that inmates assigned to Work Group M who are found guilty of a serious rule violation as defined in sections 3323(b), 3323(c), or 3323(d), found guilty of a rule violation involving use or possession of any unauthorized communication device or of any narcotic, drug, drug paraphernalia, controlled substance, alcohol, or other intoxicant as described within sections 3323(e), 3323(f), 3323(g), or 3323(h), placed in a zero credit work group pursuant to sections 3044(b)(4) or 3044(b)(6), or otherwise removed from such assignment due to safety or security considerations, shall be assigned to another work group and shall be ineligible to receive Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) and 3043.2(b)(5)(C). Pursuant to section 3043.2(a), the award of Good Conduct Credit requires that an inmate comply with the rules and regulations of the department, and the offenses listed above are serious violations of the department's rules, warranting re-assignment to another work group. Violations of sections 3323(b), 3323(c), and 3323(d) are felony level Division A-1, A-2, and B offenses that pose significant threats to the safety and security of the public, institutions, staff, and inmates. Examples of such rule violations include, but are not limited to: Murder, Attempted Murder, Manslaughter, Distribution of a Controlled Substance, Battery on a Peace Officer, and Sexual Activity in a Visiting Room Involving Physical Contact with a Minor. The use of cell phones and other unauthorized communication devices pose significant threats to the security of the institutions, public, staff, and inmates, because inmates use such devices to conspire and commit felonies such as escapes, the introduction of controlled substances into institutions, and acts of violence. Furthermore, given the prevalence of inmates in the department with criminogenic needs for substance use disorder treatment, the use, possession, and distribution of narcotics, drugs, drug paraphernalia, controlled substances, alcohol, and other intoxicants is counterproductive to the rehabilitative goals of the department and inmates. Inmate ineligibility to be awarded Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) and 3043.2(b)(5)(C) due to guilty findings for the RVRs listed above is necessary to dis-incentivize these types of serious rule violations amongst the inmate population and to ensure the safety and security of the public. Reference to placement in a zero credit work group, such as Work Group C or Work Group D-2, as resulting in preclusion from receiving Good Conduct Credit as described in sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), 3043.2(b)(5)(B) and 3043.2(b)(5)(C) is necessary, because Work Group C and Work Group D-2 are inherently zero credit earning work groups, pursuant to sections 3044(b)(4) and 3044(b)(6). Reference to removal from Work Group M due to safety or security considerations resulting in preclusion from the award of Good Conduct Credit as described in sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), and 3043.2(b)(5)(B) and 3043.2(b)(5)(C) is also necessary, because such removals warrant the raising of inmates' levels of custody above Minimum A, and Minimum Custody is required to assign an inmate Work Group M. Reference to the re-assignment of such inmates to other work groups is necessary to ensure that inmates are assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2 and commensurate with their case factors. Reference to an inmate who has been removed from assignment to Work Group M under the circumstances described above and their re-assignment to Work Group M, after an appropriate period of time by a classification committee is necessary, because some inmates pose temporary disciplinary, safety, and security concerns and are capable of positively programming with Minimum Custody and Work Group M in the future, as demonstrated by their subsequent serious disciplinary-free behavior and the totality of their case factors, as assessed by classification committees pursuant to section 3044(b).



**Subsection 3044(b)(8)(E) is adopted** to require that inmates who are eligible for initial assignment to Work Group M or who are assigned to Work Group M, who are temporarily placed in segregated housing, designated by ICC as NDS, and who otherwise remain eligible for initial or continued assignment to Work Group M pursuant to sections 3044(b)(8)(A) or 3044(b)(8)(B), shall be assigned Work Group M for the duration of their non-disciplinary segregation. Pursuant to section 3335(a), NDS means temporary segregated housing placement for administrative reasons including, but not limited to: Administrative Segregation Unit placement for investigation of safety concerns not resulting from misconduct warranting an Rules Violation Report, investigation not related to misconduct or criminal activity, being a relative or an associate of a prison staff member, and investigation related to being the victim of a Prison Rape Elimination Act, incident. This change prevents re-assignment to Work Group D-1 during NDS placement and ensures that such inmates continue to earn Good Conduct Credit associated with Work Group M, consistent with section 3043.2(b)(5)(A) during such temporary placements. This change is necessary to ensure that inmates' periods of incarceration are not unjustly extended due to their NDS statuses.

**Subsection 3044(b)(8)(F) is adopted** to require that an inmate initially assigned to Work Group D-1 by an ICC due to placement in segregated housing and who was not designated for NDS by ICC, was otherwise eligible for the assignment to Work Group M pursuant to sections 3044(b)(8)(A) or 3044(b)(8)(B) during the period of segregated housing, and was not found guilty of the serious rule violation which was the reason for Administrative Segregation Unit placement or other segregated housing placement, shall be made whole by retroactive assignment to Work Group M beginning with the effective date that Work Group D-1 was originally imposed and for the same number of days he or she was assigned to Work Group D-1. This change is necessary to ensure that inmates' periods of incarceration are not unfairly extended due to loss of Good Conduct Credit when they are not found guilty of the RVR which was the reason for their placements in segregated housing.

**Subsection 3044(b)(8)(G) is adopted** to require that except when otherwise precluded by section 3044, an inmate, who undergoes intake processing at a reception center as described in section 3075.1, with a permanent disability that impacts placement or who is receiving dialysis treatment, who, as determined by a classification committee, experienced an extended stay in the reception center beyond 60 days solely due to the disability, and qualifies for the assignment of Work Group M pursuant to section 3044, shall be assigned Work Group M effective the 61<sup>st</sup> day of the stay at the reception center. This change is necessary to comply with the spirit and intent of the *Armstrong v. Brown* Remedial Plan, to ensure that inmates are not unfairly denied Good Conduct Credit specified within section 3043.2(b)(5)(A), and do not experience adverse impacts to their release dates solely due to their permanent disabilities and dialysis treatments which impact placement and extend their stays in reception centers beyond 60 days. Retroactive assignment of Work Group M to May 1, 2017 is permitted, because May 1, 2017 was the date that Good Conduct Credit was introduced within the department. Retroactive assignment of Work Group M to May 1, 2017 is also necessary to ensure the safety of the public through accurate calculations of inmate release dates. Reference to the limit of the awarding of Good Conduct Credit as specified within subsection 3043(c) is explicitly stated within this subsection, to ensure understanding amongst the public, staff, and inmates regarding the limited effect that retroactive assignment to Work Group M shall have upon inmate release dates.

**Subsection 3044(b)(8) is renumbered 3044(b)(9) and amended** to improve grammar within this subsection. This subsection is further amended to refer to, via a cross reference to subsection 3044(b)(8)(G), exceptional circumstances under which standard assignment of an inmate undergoing reception center processing to Work Group U does not apply, and assignment to Work Group M is required. This change is necessary to ensure understanding amongst staff, so that inmates are

assigned to work groups and awarded Good Conduct Credit in accordance with section 3043.2, commensurate with their case factors, and the spirit and intent of the *Armstrong v. Brown* Remedial Plan.

**Subsections 3044(c) through 3044(c)(6)(A)1 are unchanged but shown as reference.**

**Subsection 3044(c)(6)(A)2 is amended** to improve grammar within this subsection.

**Subsections 3044(c)(6)(A)3 and 3044(c)(6)(A)4 are unchanged but shown as reference.**

**Subsection 3044(c)(7) is amended** to replace a reference to a Reentry Hub assignment to reentry program assignment, because reentry programming has been expanded to all departmental institutions within California and is no longer limited to select institutions with Reentry Hubs.

**Subsections 3044(c)(8) through 3044(d)(1)(A) are unchanged but shown as reference.**

**Subsection 3044(d)(1)(B) is amended** to improve grammar within this subsection. This subsection is also amended to refer to the authorization of mental health clinicians to diagnose inmates as being totally disabled and incapable of performing assignments, resulting in their remaining in Privilege Group A, unless changed by disciplinary action. This change is necessary, due to the expansion of mental health care services to the inmate population, because mental health clinicians are qualified to make such determinations, and limiting such diagnostic authority to physicians and psychiatrists is no longer practical within the department.

**Subsection 3044(d)(1)(C) is amended** to improve grammar within this subsection and accurately cross reference section 3044(b)(1)(E). This subsection is also amended to refer to the authorization of mental health clinicians to diagnose inmates as being partially disabled, resulting in their remaining in Privilege Group A, unless changed by disciplinary action. This change is necessary, due to the expansion of mental health care services to the inmate population, because mental health clinicians are qualified to make such determinations, and limiting such diagnostic authority to physicians and psychiatrists is no longer practical within the department.

**Subsections 3044(d)(2) and 3044(d)(2)(A) are unchanged but shown as reference.**

**Subsection 3044(d)(2)(B) is amended** to correct a typographical error and accurately refer to subsection 3045.2(d)(2) and extraordinary circumstances, when regular visiting during a Privilege Group A inmate's work hours may be approved by a work or training supervisor through the use of excused time off.

**Subsections 3044(d)(2)(C) through 3044(e)(1) are unchanged but shown as reference.**

**Subsection 3044(e)(1)(A) is amended** to correct typographical errors within this subsection. Specifically, "involuntarily unassigned as defined in section 3044(a)" is deleted, because this cross reference was inaccurate.

**Subsections 3044(e)(1)(B) through 3044(e)(2)(A) are unchanged but shown as reference.**

**Subsection 3044(e)(2)(B) is amended** to correct a typographical error and accurately refer to subsection 3045.2(d)(2) and extraordinary circumstances, when regular visiting during a Privilege

Group B inmate's work hours may be approved by a work or training supervisor through the use of excused time off.

**Subsections 3044(e)(2)(C) through 3044(f)(2)(E) are unchanged.**

**Subsection 3044(g) is unchanged but shown as reference.**

**Subsection 3044(g)(1) is amended** to improve grammar within this subsection and correct a typographical error to accurately cite subsection 3378.5 when referring to the Pre-Debrief Intake Panel portion of Phase One of the debrief process.

**Subsections 3044(g)(2) through 3044(h)(2)(F) are unchanged.**

**Subsection 3044(i) is unchanged but shown as reference.**

**Subsections 3044(i)(1) through 3044(i)(3)(C)11 are unchanged.**

**Subsection 3044(i)(3)(D) is unchanged but shown as reference.**

**Subsections 3044(i)(3)(D)1 through 3044(i)(3)(D)5 are unchanged.**

**Subsection 3044(i)(3)(D)6 is amended** to reflect that ICC is the acronym for Institution Classification Committee.

**Subsections 3044(i)(3)(D)7 through 3044(j)(4) are unchanged.**

## **Repeal of Section 3371.1 Computation of Time and Pre-prison Credit.**

**Section 3371.1 Computation of Time and Pre-prison Credit is being repealed** and replaced with Section 3371.1 Computation of Term and Credit.

**Subsection 3371.1(a) has been incorporated into the** new subsection 3371.1(a)(1).

**Subsections 3371.1(b)(1) and (b)(3) have been deleted** because the laws referenced in those subsections no longer exist.

**Subsections 3371.1(b)(2) and (b)(4) have been moved** to new subsections 3371.1(d)(1) and (d)(2). The reference to the California Youth Authority was deleted because it no longer exists.

**Subsection 3371.1(c) has been deleted** and replaced, with additional language, by a new subsection 3371.1(e)(1) and (e)(2).

**Subsections 3371.1(d)(1) through (5) have been deleted** so that when the department notices an apparent inconsistency or problem with credits or sentencing, and wants to write to the court, it is not limited to the five categories listed in this subsection.

**Subsection 3371.1(e) has been deleted** because it is no longer used. Subsection 3371.1(e) applied to indeterminate sentences set by the Board of Prison Terms (BPT) (now known as Board of Parole Hearings, BPH) before the beginning of determinate sentencing in 1977. Prior to July 1, 1977, all sentences were indeterminate and all releases were reviewed by BPT.

**Subsection 3371.1(f) has been deleted** because it is no longer used. Subsection 3371.1(f) applied to indeterminate sentences set by the Board of Prison Terms (BPT) (now known as Board of Parole Hearings, BPH) before the beginning of determinate sentencing in 1977. Prior to July 1, 1977, all sentences were indeterminate and all releases were reviewed by BPT.

**Subsection 3371.1(g) has been incorporated** into the new subsection 3371.1(f), with some changes made.

**Subsection 3371.1(h)'s first sentence has been deleted** because it was not necessary as it simply restated the Three Strike's Law that is included in the Penal Code, and referenced a credit limitation that is now outdated and governed by 3043.2. The second sentence has been deleted because it was not necessary as this is now governed by Section 3043.2 and new subsection 3371.1(h). The third sentence has been deleted because it was not necessary as it simply restated the Three Strike's Law codified in the Penal Code and because this is now governed by new subsection 3371.1(h).

## **Adoption of new Section 3371.1 Computation of Term and Credit.**

**New Section 3371.1 Computation of Term and Credit is being adopted** to assist department staff who perform credit and term calculations by ensuring that they have a common understanding of commonly used words and phrases and thus ensure uniform application of these calculation rules across the entire population of inmates in State prison. The proposed regulation will also provide more transparency to inmates and members of the public who seek to understand credit or sentence calculations.

**Subsection 3371.1(a) is adopted** to clarify that Case Records Staff are responsible for processing court documents and documents from prison staff, and using these documents to calculate an inmate's term. Court documents include, but are not limited to, Abstracts of Judgement. Documents from prison staff include, but are not limited to, documentation of completion of activities leading to conduct credit. This section is also adopted to put into regulation Case Records Staff's practice of reviewing court documents, and to clarify that case records is not obligated to detect sentence discrepancies, but when it does discover apparent discrepancies, it will write to the courts about the apparent discrepancies found.

**Subsection 3371.1(b)(1) is adopted** and provides that an inmate's term of imprisonment is still governed by the laws in effect on the date of the offense.

**Subsection 3371.1(b)(2) is adopted** and references the law for computing credits, including the Electorate's passage of the Act.

**Subsection 3371.1(c)(1) is adopted** to provide definitions for several different types of credit for the time an inmate spent in custody prior to arrival at CDCR, and to clarify the roles of the sentencing court and the department regarding actual days served and good conduct credit on those days. These credit types are factored in to the calculation of an inmate's term.

**Subsection 3371.1(c)(1)(A) is adopted** to clarify that the award of any credit to an inmate prior to, and on the day of the sentencing hearing (actual time and good conduct credit) is calculated and awarded by the sentencing court pursuant to Penal Code sections 2900.1, 2900.5, 2933.1, and 4019. This section also indicates that CDCR will award credits for time served after the date the inmate is in CDCR jurisdiction; this was added because CDCR is in the best position to accurately determine its own credits.

**Subsections 3371.1(c)(1)(B) and (C) are adopted** to distinguish credits awarded by the sentencing court and those awarded by the department. The department calculates and awards credits for actual days served after the sentencing hearing until delivery to the department (post sentence credit) and good conduct credits based on those actual days served (vested credit).

**Subsection 3371.1(c)(2) is adopted** to define Dead time, and to explain that an inmate does not receive credit against a sentence for Dead time.

**Subsection 3371.1(c)(3) is adopted** to define the two types of Release dates for an inmate who has been sentenced to a determinate term. The two types, Earliest Possible Release Date (EPRD) and Maximum Release Date, have been used by the department for a long time but have never been defined in a regulation. Adding these definitions is especially important now because the new Nonviolent Parole Consideration Process distinguishes between these dates; inmates who have EPRDs within 180 days of their nonviolent parole eligibility date are screened out of the nonviolent parole process.

**Subsection 3371.1(c)(3)(A) is adopted** to clarify the earliest date an inmate can be released (as of the date of that calculation) from a single determinate term (subsection 3371.1(c)(4)(A)) or an aggregated determinate term (subsection 3371.1(c)(4)(B)), assuming the inmate earns the most conduct credit possible and does not forfeit any conduct credit.

**Subsection 3371.1(c)(3)(B) is adopted** to clarify that the Maximum Release Date is the latest date that an inmate can be released from a single determinate term (subsection 3371.1(c)(4)(A)) or an aggregated determinate term (subsection 3371.1(c)(4)(B)) if the inmate were to serve the entire term imposed by a court of law and did not earn any credit. The calculation of Maximum Release Date includes the application of pre-sentence credit, post-sentence credit, and vested credit as defined in subsections 3371.1(c)(1)(A) through (C), administrative credit as defined in subsection 3371.1(d)(1) through (3), and Dead Time as defined in subsection 3371.1(c)(2). The last sentence is necessary to calculate because inmates can be sentenced to more than one term of imprisonment and a Maximum Release Date will be calculated for each term. Sometimes an inmate will be sentenced to two terms ordered by the same or two different courts, with the second term to be served concurrently (at the same time) to the first term. In such case, each term will have a Maximum Release Date. Other times an inmate will be sentenced to two terms ordered by the same or two different courts, with the second term order to be served fully consecutive (defined in subsection 3371.1(c)(5)(C)) to the first term. In such case, each term will have a Maximum Release Date.

**Subsection 3371.1(c)(4) is adopted** to explain different types of terms of incarceration. This will ensure department staff have a common understanding of the terms, and help readers understand the department's calculations, the Nonviolent Parole Consideration Process, and the application of credits.

**Subsections 3371.1(c)(4)(A) and (B) are adopted** to clarify the difference between a term of incarceration imposed for a single offense and a term of incarceration imposed for multiple offenses. A court sentencing for multiple offenses does not simply add the terms for each offense together. Rather, a court can order the term for one offense to be served concurrently (at the same time) as the terms for the other offenses. It is common, however, for a court to combine the terms for all the offenses by creating an aggregate term, which includes choosing a principal term and subordinate terms as prescribed under Penal Code section 1170.1, subdivision (a).

**Subsection 3371.1(c)(4)(C) is adopted** to clarify that sometimes an inmate will be sentenced to two terms ordered by the same or two different courts, with the second term ordered to be served fully consecutive to the first term. Once the inmate has completed service of the first term, the inmate will begin serving the second term, because the second term is fully consecutive to the first term.

**Subsection (d)(1) through (d)(3) is text moved from** former subdivisions 3371.1(b)(2) and (b)(4). In addition, it was made clear that inmates shall receive credit for time served in the Department of State Hospitals in a manner similar to the credit they receive for time served in the Division of Juvenile Justice.

**Subsection 3371.1(e) is adopted** because although ordinarily an inmate is received with commitment documents that, upon application (of the court's orders for example), leave the inmate with additional time to serve prior to release, there are several circumstances in which, after re-sentencing by a court, issuance of a BPH release memo, or application of credit, that the inmate is found to have completed his or her term. This subsection categorizes these circumstances and establishes timeframes for processing inmates for release.

**Subsection 3371.1(e)(1) is adopted to incorporate and revise former 3371.1, subsection (c).** Subsection 3043(c) provides that an inmate shall not have credit restored that advances his release date to less than 60 days from the date the credit restoration took place, "except pursuant to a court order." The new subsection (e)(1) provides further information on the process and timeline for

release pursuant to a court order, when the court order, or other commitment paperwork, shows that an inmate newly received by the department should not have been delivered to prison because his or her sentence was already served in full. The five business day limit of former subsection 3371.1(c) is expanded to ten business days for this particular population, because administrative tasks, including those of processing for release and supervision, have not been started.

**Subsection 3371.1(e)(2) is adopted** and provides that inmates who are considered eligible for immediate release due to an amended Abstract of Judgement or court order, shall be released within five business days, in accordance with the former subsection (c). Unlike the population in subsection 3371.1(e)(1), some of the administrative tasks have already been completed for inmates already housed at the department, whereas inmates who have not already been in department custody (as described in the paragraph above) require more processing.

**Subsection 3371.1(e)(3) is adopted** for a group of inmates not yet addressed in regulation. Five business days is used in this subdivision because like the inmate population captured in (e)(2) of this section, some administrative tasks have been completed.

**Subsections 3371.1(f)(1) and (f)(2) is text incorporated and revised from** former subsection 3371.1(g), to provide clarity regarding the definition of a “day.”

**Subsection 3371.1(f)(3)** is adopted to make clear that once an inmate has completed the last day of his sentence under subdivision (f)(1), the following day is the first day of parole or post-release community supervision regardless of the actual time of day the inmate is released to supervision. If there is no supervision this day is the first day as a discharged offender.

**Subsections 3371.1(g)(1) and (g)(2) are adopted** to conform department practices to court decisions that interpret sentencing and credit-earning statutes. Subsection (g)(1) captures the courts’ decisions in *In re Pope* (2010) 50 Cal.4th 777, *People v. Ramos* (1996) 50 Cal.App.4th 810, and *In re Pacheco* (2007) 155 Cal.App.4th 1439. Subsection (g)(2) captures *In re Reeves* (2005) 35 Cal.4th 765. These cases, and now subsection (g)(1) & (2), provide the rules to be applied when an inmate has a violent term or enhancement in addition to other non-violent terms, depending on whether the inmate was sentenced concurrently or consecutively.

**Subsection 3371.1(h) is adopted** to include the results of *In re Sengdara*, (Super. Ct. Orange County, 2016, No. M-16673XA.). This subsection now establishes how credits should be applied when an inmates has a strike that was stricken by the sentencing court under Penal Code section 1385.

## TEXT OF PROPOSED REGULATIONS

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

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

#### Chapter 1. Rules and Regulations of Adult Operations and Programs

##### Article 3.5 Credits.

##### Section 3043.7 Special Assignments.

(a) Special assignments include:

(1) ~~Inmate advisory council~~. The positions of chairperson and secretary of an institution's inmate advisory council may qualify as a full-time assignment to~~positions in~~ Work Group A-1.

(2) ~~Prerelease program~~. Assignment to an approved full-time pre-release program shall qualify as a full-time assignment to~~in~~ Work Group A-1.

(3) Any Reentry ~~Hub~~ program assignment shall qualify as a full-time assignment to~~in~~ Work Group A-1.

(b) Short Term Medical/ or p~~Psychiatric i~~Inpatient h~~Hospitalization~~ (29 calendar days or less). Inmates determined by medical/ or mental health~~psychiatric~~ staff to need short-term inpatient care shall retain their existing credit earning category. Inmates requiring longer periods of inpatient care shall be referred by the attending physician/ or mental health clinician~~psychiatrist~~ to a classification committee for review. The classification committee shall confirm the inmate's unassigned inpatient category and change the inmate's work/ or training group status as follows:

(1) A~~G~~ general population inmates shall be assigned to placed in Work Group A-2, effective the thirtieth calendar day of unassignment, unless the inmate is assigned to Work Group C or Work Group M in accordance with sections 3044(b)(4) or 3044(b)(8).

(2) ~~Segregation~~ An inmates who ~~are~~is in assigned to Work Group A-1, ~~or Work Group B, Work Group F, or Work Group M and placed in segregated housing shall be assigned to~~placed in Work Group D-1, effective the first day of placement into Administrative Segregation, unless the inmate is assigned to Work Group D-2, Work Group F, or Work Group M in accordance with sections 3044(b)(6), 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), or 3044(b)(8)(F).

(3) Segregation inmates assigned to~~in~~ Work Group D-1 or D-2 shall retain their ~~W~~work ~~G~~group status.

(c) Long ~~t~~Term m~~Medical/ or p~~Psychiatric u~~Unassigned s~~Status. In cases where the health condition necessitates that the inmate becomes medically unassigned for 30 calendar days or more, the physician or mental health clinician shall specify an anticipated date the inmate may return to work. The classification committee shall review the inmate's medical or psychiatric unassigned status and change the inmate's ~~W~~work ~~G~~group status as follows:

(1) An inmate in the general population shall be re-assigned~~changed~~ to Work Group A-2, involuntary unassigned, ~~to be~~ effective the thirtieth calendar day of un-assignment, unless the inmate is assigned to Work Group C or Work Group M in accordance with sections 3044(b)(4) or 3044(b)(8).

(2) An inmate ~~in a lockup unit who is assigned to~~who is in Work Group A-1, ~~or Work Group B, Work Group F, or Work Group M and placed in segregated housing shall be re-assigned~~changed to Work Group D-1, ~~to be~~ effective the first day of placement into Administrative Segregation, unless



the inmate is assigned to Work Group D-2, Work Group F, or Work Group M in accordance with sections 3044(b)(6), 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), or 3044(b)(8)(F).

(3) An inmate in a ~~lockup unit~~segregated housing who is assigned to~~in~~ Work ~~g~~Group D-1 or D-2 shall be retained in their respective ~~W~~work ~~G~~group.

(d) ~~Medical~~ or mental ~~psychiatric~~ health care status determination:

(1) When an inmate has a disability that limits his ~~or~~ her ability to participate in a work, academic, Career Technical Education program or other such program, ~~medical~~ or mental health ~~psychiatric~~ staff shall document the nature, severity, and expected duration of the inmate's limitations on a CDC Form 128-C (Rev. 1/96), Chrono-Medical, Psychiatric, Dental. The ~~medical~~ or mental health~~psychiatric~~ staff shall not make program assignment recommendations or decisions on the form. The CDC Form 128-C shall then be forwarded to the inmate's assigned correctional counselor who ~~shall refer~~ will schedule the inmate ~~to~~for a classification committee for review. The classification committee shall have ~~the~~ sole responsibility for making program assignment and work group status decisions. Based on the information ~~on~~ the CDC Form 128-C and working in conjunction with staff from the affected work area, academic ~~program~~ program, Career Technical Education program, and the Inmate Assignment Lieutenant, the classification committee shall evaluate the inmate's ability to participate in work, academic, Career Technical Education program, or other programs and make a determination of the inmate's program assignment and work group status.

(2) Only when the inmate's documented limitations are such that the inmate, even with reasonable accommodation, is unable to perform the essential functions of any work, academic, Career Technical Education or other such program, will the inmate be placed in one of the two following categories by a classification committee:

(A) Temporary ~~medical~~ or psychiatric unassignment. Except as provided in section 3043.7(e)(2)(A), when a disabled inmate is unable to participate in any work, academic, Career Technical Education program or other program, even with reasonable accommodation, because of a medically determinable physical or mental impairment that is expected to last for less than six months, the classification committee shall place the inmate on temporary ~~medical~~ or psychiatric unassignment. An ~~in~~mates on temporary ~~medical~~ or psychiatric unassignment status shall be scheduled for classification review any time there is a change in his ~~or~~ her physical ~~or~~ mental impairment, or no less than every six months for reevaluation. The credit earning status of an inmate on temporary ~~medical~~ or psychiatric unassignment for less than six months shall be in accordance with section 3044(b)(2), Work Group A-2, unless the inmate is assigned Work Group M in accordance with section 3044(b)(8). If the inmate's condition lasts six months and the classification committee still cannot assign the inmate due to his ~~or~~ her impairment, the credit earning status shall be changed to be in accordance with section 3044(b)(1), Work Group A-1 and appropriate privilege group retroactive to the first day of the temporary ~~medical~~ or psychiatric unassignment, unless the inmate is assigned Work Group M in accordance with section 3044(b)(8).

(B) Medically disabled. When an inmate is unable to participate in any assigned work, academic, Career Technical Education program, or other such program activity, even with reasonable accommodation, because of a medically determinable physical or mental impairment that is expected to result in death or last six months or more, the classification committee shall place the inmate on medically disabled status. The inmate credit earning status shall be in accordance with section 3044(b)(1), Work Group A-1 and Privilege Group A, unless the inmate is assigned Work Group M in accordance with section 3044(b)(8).

(e) Medical~~/or~~ psychiatric special assignments:

(1) Light duty: Inmates determined to have long-term medical or psychiatric work limitations shall be processed in the following manner:

(A) A medical or ~~mental health~~psychiatric evaluation of the inmate shall be made to determine the extent of disability and to delineate capacity to perform work and training programs for either a full or partial workday. If the inmate is deemed capable of only a partial work program, full credit shall be awarded for participation in such a program.

(B) A classification committee shall review the evaluation and determine the inmate's assignment.

1. A committee concurring with an evaluation's light duty recommendation shall refer the matter to the facility's assignment office which shall attempt to provide an assignment within the inmate's capabilities. Inmates assigned to such light duty shall be scheduled for semi-annual review.

2. A committee disagreeing with an evaluation's light duty recommendation shall refer the matter back to the medical or mental health department, describing the difference of opinion or rationale for requesting a second ~~medical~~ evaluation. If the committee disagrees with the second ~~medical~~ evaluation it shall refer the matter to the institution classification committee for final determination.

(2) Short-term medical~~/or~~ psychiatric lay-in or unassignment. Inmates who are ill or otherwise require a medical~~/or~~ psychiatric lay-in, or unassignment for 29 calendar days or less, shall be processed in the following manner:

(A) Only designated medical~~/or~~ ~~mental health~~psychiatric staff are authorized to approve such lay-ins and unassignments. Reasons for the approval and the expected date of return to their regular assignment shall be documented by the medical~~/or~~ mental health ~~psychiatric~~ staff making the decision.

(B) Inmates shall notify their work or training supervisor of their lay-in or unassignment status. The work or training supervisor shall record each day of the inmate's approved absence as an "E".

(C) Medical~~/or~~ ~~mental health~~psychiatric staff determining an inmate should continue on lay-in or unassigned status for more than 29 calendar days shall refer the case to a classification committee for review.

(D) The inmate shall continue to use ETO time while on short-term medical~~or~~ psychiatric lay-in or unassigned status.

(f) On-the-job injuries. The chief medical officer shall document inmate injuries occurring on the job. With the exception of inmates assigned to Work Group F, such injured inmates shall retain their existing work group status until medically approved to return to their work assignment. Inmates assigned to Work Group F shall revert to Work Group A-1 in accordance with section 3044(b)(1) or Work Group M in accordance with section 3044(b)(8) effective on the date the chief medical officer determines the on-the-job injury excludes the inmate from conservation camp placement or from placement as a firefighter at a California Department of Corrections and Rehabilitation firehouse, providing the chief medical officer's exclusion determination is within 29 calendar days following the date of the inmate's removal from the conservation camp or firehouse firefighter assignment. If the chief medical officer's exclusion determination is not within 29 calendar days following the date of the inmate's removal from the conservation camp or firehouse firefighter assignment, the inmate shall revert to Work Group A-1 in accordance with section 3044(b)(1) or Work Group M in accordance with section 3044(b)(8) effective the 30<sup>th</sup> calendar day following the date of the inmate's removal from the conservation camp or firehouse firefighter assignment.

(g) Medical or psychiatric treatment categories “H”, “I”, and “N”. An inmate assigned to category “H”, “I”, or “N” is not capable of performing a work or training assignment and shall, except where otherwise prohibited by law, be assigned to placed in Work Group A-1, unless the inmate is assigned Work Group M in accordance with section 3044(b)(8).

(h) Department of State Hospitals Mental Health (DMH) Penal Code (PC) sections 1364, 2684 and 2690 ~~Placements~~. An inmate transferred to the Department of State Hospitals DMH pursuant to PC sections 1364, 2684, or 2690 of the Penal Code shall be assigned to placed in a work group as provided in section 3043.8(b).

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

**Section 3044 is amended to read:**

**3044. Inmate Work Groups and Privilege Groups.**

**Subsection 3044(a) is unchanged but shown as reference.**

(a) Full-time and half-time defined.

**Subsections 3044(a)(1) through 3044(b)(2) are amended to read:**

(1) Full-time work ~~or~~ training assignments normally mean eight ~~(8)~~ hours per day on a five day per week basis, exclusive of meals.

(2) Half-time work ~~or~~ training assignments normally mean four ~~(4)~~ hours per day on a five day per week basis, exclusive of meals.

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

(1) Work Group A-1 (Full-Time Assignment). An inmate willing and able to perform an assignment on a full-time basis shall be assigned to placed in Work Group A-1, except when the inmate qualifies for the assignment of Work Group F or Work Group M pursuant to sections 3044(b)(7) or 3044(b)(8). The work day shall not be less than 6.5 hours of work participation and the work week no less than 32 hours of work participation, as designated by assignment. Those programs requiring an inmate to participate during other than the normal schedule of eight-hours-per-day, five-days-per-week (e.g., 10-hours-per-day, four-days-per-week) or programs that are scheduled for seven-days-per-week, requiring inmate attendance in shifts (e.g., three days of 10 hours and one day of five hours) shall be designated as “special assignments” and require departmental approval prior to implementation. “Special assignment” shall be entered on the inmate's timekeeping log by the staff supervisor.

(A) Any inmate assigned to a ~~Rehabilitative P~~program, ~~to include~~ but not be limited to, ~~S~~substance abuse ~~T~~treatment, ~~C~~cognitive ~~B~~behavioral ~~T~~treatment, ~~T~~ransitions, ~~E~~ducation, ~~C~~areer ~~T~~echnical ~~E~~ducation, or any combination thereof, shall be assigned to designated Work Group A-1, except when the inmate qualifies for the assignment of Work Group M pursuant to section 3044(b)(8). An inmate assigned to the Security Threat Group ~~(STG) Step Down Program (SDP)~~ shall be assigned a ~~W~~work ~~G~~group in accordance with sections 3044(b)(5) and 3044(b)(6).

(B) Any inmate assigned to a combination of half-time work assignment, and any rehabilitative program as described in ~~subsection~~ ~~section 3044(b)(1)(A) above,~~ shall be assigned to designated Work Group A-1, except when the inmate qualifies for the assignment of Work Group M pursuant to section 3044(b)(8).

(C) A full-time college program may be combined with a half-time work or ~~C~~areer ~~T~~echnical ~~E~~ducation program equating to a full-time assignment. The college program

shall consist of ~~twelve~~<sup>12</sup> units in credit courses only leading to an associate's degree in two years or a bachelor's degree in four years.

(D) Any inmate diagnosed by a physician or mental health clinician~~psychiatrist~~ as totally disabled and therefore incapable of performing an assignment, shall remain ~~in~~ assigned to Work Group A-1 throughout the duration of their total disability, unless the inmate is assigned to Work Group C, Work Group D-1, Work Group D-2, or Work Group M in accordance with sections 3044(b)(4), 3044(b)(5), 3044(b)(6), or 3044(b)(8).

(E) Any inmate ~~when~~ diagnosed by a physician or mental health clinician~~psychiatrist~~ as partially disabled shall be assigned to an assignment within the physical and mental capability of the inmate as determined by the physician or mental health clinician~~psychiatrist~~, unless changed by disciplinary action.

(2) Work Group A-2 (Involuntarily Unassigned). An inmate willing but unable to perform in an assignment shall be assigned to~~placed in~~ Work Group A-2, if the inmate does not qualify for assignment to Work Group M pursuant to section 3044(b)(8) and either of the following is true:

**Subsections 3044(b)(2)(A) and 3044(b)(2)(B) are unchanged but shown as reference.**

(A) The inmate is placed on a waiting list pending availability of an assignment.

(B) The unassigned inmate is awaiting adverse transfer to another institution.

**Subsection 3044(b)(3) is amended to read:**

(3) Work Group B (Half-Time Assignment). An inmate willing and able to perform an assignment on a half-time basis shall be assigned to~~placed in~~ Work Group B, except when the inmate qualifies for the assignment of Work Group M pursuant to section 3044(b)(8). Half-time programs shall normally consist of an assignment of four hours per workday, excluding meals, five-days-per-week, or full-time enrollment in college consisting of ~~twelve~~<sup>12</sup> units in credit courses leading to an associate's degree or bachelor's degree. The work day shall be no less than three hours and the work week no less than fifteen ~~15~~ hours.

**Subsection 3044(b)(4) is unchanged but shown as reference.**

(4) Work Group C (Disciplinary Unassigned; Zero Credit).

**Subsections 3044(b)(4)(A) through 3044(b)(6)(C) are amended to read:**

(A) Any inmate who twice refuses to accept assigned housing, ~~or~~ who refuses to accept or perform in an assignment, or who is deemed a program failure as defined in section 3000; by a classification committee shall be assigned to~~placed in~~ Work Group C for a period not to exceed the number of disciplinary credits forfeited due to the serious disciplinary infraction(s) or 180 days, whichever is less, except when the inmate qualifies for assignment to Work Group D-2 in accordance with section 3044(b)(6)(C).

(B) An inmate assigned to~~in~~ this work group shall not be awarded Good Conduct Credit, as described in section 3043.2, for a period not to exceed the number of disciplinary credits forfeited or 180 days, whichever is less, and shall revert to his or her previous work group upon completion of the credit forfeiture, unless the inmate no longer qualifies for assignment to Work Group F or Work Group M due to the totality of their case factors. In such exceptional circumstances, the inmate shall be assigned to another work group in accordance with this section. The inmates shall also be returned~~referred~~ to a classification committee for placement on an appropriate waiting list.

(5) Work Group D-1 (Lockup Status). An inmate assigned to a segregated housing program, shall be assigned to~~placed in~~ Work Group D-1, unless the inmate qualifies for continued assignment to Work Group F or Work Group M or initial assignment to Work Group M in accordance with sections

3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), or 3044(b)(8)(F). Inmates assigned to Steps 1 through 4 of the Security Threat Group Step Down Program and who are eligible to earn credit pursuant to ~~Penal Code (PC) section 2933 of the Penal Code~~ credits, shall be awarded one day of credit for each day assigned to this work group. Inmates who are not eligible to earn credits pursuant to ~~under PC section 2933 of the Penal Code~~ shall receive credits pursuant to their sentence. Segregated housing shall include, but not be limited to, the following:

(A) Administrative Segregation Unit (ASU);

(B) Security Housing Unit (SHU);

(C) Psychiatric Services Unit (PSU);

(D) Non-Disciplinary Segregation (NDS);

(6) Work Group D-2 (Lockup Status: Zero Credit). ~~Inmates placed in SHU, PSU, or ASU following the commission of any other serious disciplinary infraction shall not be awarded Good Conduct Credit for a period not to exceed the number of disciplinary credits forfeited.~~

(A) Unless the exceptional criteria specified in section 3044(b)(6)(B) are met, an inmate serving an imposed SHU term pursuant to section 3341.9(e) in segregated housing shall be assigned to Work Group D-2, effective the date of the Rules Violation Report, for a period not to exceed the number of whole-day credits forfeited for the rule violation or 180 days, whichever is less, up to the Minimum Eligible Release Date or the date the Institution Classification Committee suspends the remainder of the SHU term.~~An inmate assigned to a determinate SHU term which included a forfeiture of credits shall not receive Good Conduct Credit during the period of credit forfeiture or 180 days, whichever is less, starting from the date of change in custodial classification. An inmate confined in a secure housing unit for a division A 1 offense, as designated in section 3323(e) of these regulations, and which included great bodily injury on a non-prisoner shall not receive Good Conduct Credit for up to 360 days. Upon~~Following completion of the period of credit forfeiture, the inmate shall be re-evaluated by a classification committee for assignment to another work group.

(B) ~~An inmate's status in Work Group D-2 may be extended, in up to six month increments, by a classification committee in unusual cases where no other assignment can be made without causing a substantial risk of physical harm to staff or others. At the end of the designated period (six months or less), the determination shall be reviewed by an institution classification committee.~~An inmate serving an imposed SHU term pursuant to section 3341.9(e) in segregated housing due to a guilty finding for a Division A-1 offense, as designated in section 3323(b), and which involved serious bodily injury on a non-prisoner, shall be assigned to Work Group D-2, effective the date of the Rules Violation Report, for a period not to exceed the number of whole-day credits forfeited for the rule violation or 360 days, whichever is less, up to the Minimum Eligible Release Date or the date the Institution Classification Committee suspends the remainder of the SHU term. Following completion of the period of credit forfeiture, the inmate shall be re-evaluated by a classification committee for assignment to another work group.

(C) ~~An inmate in ASU, SHU, or PSU, or other segregated housing serving an administrative or determinate SHU term, who is deemed a program failure as defined in section 3000, may be assigned Work Group D-2 for non-SHU assessable Rules Violation Report(s) by a classification committee for a period not to exceed the number of credits forfeited for the rules violation(s) or 180 days, whichever is less. An inmate assigned to Work Group C at the time of placement in ASU, SHU, or PSU, or other segregated housing, or who refuses to accept or perform work assignments, shall be assigned Work Group D-2. An inmate released from ASU, SHU, or PSU, or other segregated housing, may be placed back into assigned Work Group C by a classification committee, not to exceed the remaining number of disciplinary credits forfeited due to the serious disciplinary infraction(s) or 180 days, whichever is less.~~

**Subsection 3044(b)(6)(D) is unchanged but shown as reference.**

(D) If the administrative finding of misconduct is overturned or if the inmate is criminally prosecuted for the misconduct and is found not guilty, Good Conduct Credit shall be restored.

**Subsection 3044(b)(7) through 3044(b)(7)(C) are amended to read:**

(7) Work Group F (Minimum B Custody and Firefighting or Non-Firefighting Camp Placement). Assignment to Work Group F awards Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), and 3043.2(b)(5)(B), and 3043.2(b)(5)(C).

(A) An inmate assigned to ~~Minimum A Custody or~~ Minimum B Custody who has successfully completed the requisite physical fitness training and firefighting training to be assigned as a firefighter to a Department of Forestry and Fire Protection fire camp or as a firefighter at a Department of Corrections and Rehabilitation firehouse is ~~statutorily eligible for day for day credit~~ shall be ~~assigned to~~ placed in Work Group F.

(B) An inmate assigned to Minimum B Custody who is placed in ~~has completed the requisite training to be assigned to~~ a Department of Forestry and Fire Protection fire camp for assignment to a non-firefighter position as a firefighter at a Department of Corrections and Rehabilitation firehouse shall be ~~assigned to~~ placed in Work Group F.

(C) An inmate placed in Work Group F who ~~are~~ is (1) found guilty of a serious rule violation as defined in ~~subsections 3323(b), 3323(c), or 3323(d) of section 3323,~~ (2) found guilty of a rule violation involving use or possession of any unauthorized communication device or of any narcotic, drug, drug paraphernalia, controlled substance, alcohol, or other intoxicant, as defined in sections 3323(e), 3323(f), 3323(g), or 3323(h), 3) placed in a zero-credit work group pursuant to ~~subsections 3044(b)(4) or 3044(b)(6) of section 3044,~~ or (4) otherwise removed from this assignment due to safety or security considerations, shall be assigned to another ~~W~~work ~~G~~group consistent with the remaining provisions of this section and shall be ineligible to receive Good Conduct Credit pursuant to ~~subsections 3043.2(b)(4)(B), or 3043.2(b)(4)(C), 3043.2(b)(5)(A), or 3043.2(b)(5)(B), or 3043.2(b)(5)(C), of section 3043.2.~~ An inmate who has been removed from this assignment under the circumstances described above may be re-assigned to ~~placed in~~ Work Group F ~~again,~~ after an appropriate period of time, by a classification committee action.

**Subsections 3044(b)(7)(D) through 3044(b)(7)(G)4. are adopted to read:**

(D) An inmate assigned to Work Group F who 1) is temporarily placed in an ASU or other segregated housing placement unit, 2) designated by the Institution Classification Committee as non-disciplinary segregation pursuant to section 3335(a), and 3) who otherwise remains eligible for continued assignment to Work Group F pursuant to sections 3044(b)(7)(A) or 3044(b)(7)(B), shall continue to be assigned Work Group F for the duration of his or her non-disciplinary segregation.

(E) An inmate initially assigned to Work Group D-1 by the Institution Classification Committee due to placement in ASU, SHU, PSU, or other segregated housing unit pursuant to section 3044(b)(5) and who 1) was not designated for non-disciplinary segregation by the Institution Classification Committee, 2) otherwise eligible for the assignment to Work Group F pursuant to sections 3044(b)(7)(A) or 3044(b)(7)(B) during the period of segregated housing, and 3) was not found guilty of the serious rule violation which was the reason for ASU or other segregated housing placement, shall be made whole by retroactive assignment to Work Group F beginning with the effective date that Work Group D-1 was originally imposed and for the same number of days that he or she was assigned to Work Group D-1.

(F) An inmate assigned to Work Group F pursuant to section 3044(b)(7) for a cumulative period of twelve months or more on his or her current term of incarceration shall continue to earn Good Conduct Credit pursuant to sections 3043.2(b)(4)(B),



3043.2(b)(4)(C), 3043.2(b)(5)(A), ~~or~~ 3043.2(b)(5)(B), or 3043.2(b)(5)(C) upon transfer to an alternative custody setting as defined in section 3043(d).

(G) An inmate may be assigned Minimum B Custody and Work Group F, if the inmate meets the criteria noted above and all of the following are true:

1. The inmate is wanted for a felony by an out-of-state law enforcement agency (other than a Federal agency).
2. The agency does not have a detainer placed with the department for the felony.
3. The inmate's central file documents that the agency communicated to the department that they will not extradite the inmate for the purpose of prosecution of the felony.
4. The totality of the inmate's remaining case factors does not preclude the assignment of Minimum B Custody.

**Subsection 3044(b)(8) is renumbered 3044(b)(9).**

**New subsection 3044(b)(8) is adopted to read:**

(8) Work Group M (Minimum Custody or otherwise eligible for Minimum Custody). Assignment to Work Group M awards Good Conduct Credit pursuant to section 3043.2(b)(5)(A).

**Subsections 3044(b)(8)(A) through 3044(b)(8)(G) are adopted to read:**

(A) Effective January 1, 2018, an inmate assigned to Minimum A Custody or Minimum B Custody who does not qualify for assignment to Work Group F pursuant to section 3044(b)(7) shall be assigned to Work Group M. Work Group M may be assigned retroactively to May 1, 2017. However, Good Conduct Credit awarded pursuant to section 3043.2(b)(5)(A) shall be limited in accordance with section 3043(c).

(B) Effective January 1, 2018, an inmate otherwise eligible for assignment to Minimum A Custody or Minimum B Custody whose eligibility for such assignment is limited solely due to their 1) placement in the Mental Health Services Delivery System at the Enhanced Outpatient level of care or higher level and/ or 2) medical or mental health status which requires additional clinical and custodial supervision as determined by the Institutional Classification Committee, shall be assigned to Work Group M. Work Group M may be assigned retroactively to May 1, 2017. However, Good Conduct Credit awarded consistent with section 3043.2(b)(5)(A) shall be limited in accordance with section 3043(c).

(C) Effective January 1, 2018, an inmate may be assigned Minimum A or Minimum B Custody and/ or Work Group M, which may be applied retroactively to May 1, 2017, if the inmate meets the criteria noted above and all of the following, are true:

1. The inmate is wanted for a felony by an out-of-state law enforcement agency (other than a Federal agency).
2. The agency does not have a detainer placed with the department for the felony.
3. The inmate's central file documents that the agency communicated to the department that they will not extradite the inmate for the purpose of prosecution of the felony.
4. The totality of the inmate's remaining case factors does not preclude the assignment of Minimum A and Minimum B Custody or the inmate is otherwise eligible for assignment to Minimum A or Minimum B Custody as described in section 3044(b)(8)(B).

(D) An inmate assigned to Work Group M who is 1) found guilty of a serious rule violation as defined in sections 3323(b), 3323(c), or 3323(d), 2) found guilty of a rule violation involving use or possession of any unauthorized communication device or of any narcotic, drug, drug paraphernalia, controlled substance, alcohol, or other intoxicant, as defined in sections 3323(e), 3323(f), 3323(g), or 3323(h), 3) placed in a zero-credit work group pursuant to sections 3044(b)(4) or 3044(b)(6), or 4) otherwise removed from this assignment due to safety or security considerations, shall be re-assigned to another work group consistent with the remaining provisions of this section and shall be ineligible

to receive Good Conduct Credit pursuant to sections 3043.2(b)(4)(B), 3043.2(b)(4)(C), 3043.2(b)(5)(A), ~~or~~ 3043.2(b)(5)(B), or 3043.2(b)(5)(C). An inmate who has been removed from this assignment under the circumstances described above may be assigned to Work Group M again, after an appropriate period of time, by a classification committee.

(E) An inmate eligible for initial assignment to Work Group M or who is assigned to Work Group M who 1) is temporarily placed in an ASU or other segregated housing placement unit, 2) designated by the Institution Classification Committee as non-disciplinary segregation pursuant to section 3335(a), and 3) who otherwise remains eligible for initial or continued assignment to Work Group M pursuant to sections 3044(b)(8)(A) or 3044(b)(8)(B), shall be assigned Work Group M for the duration of his or her non-disciplinary segregation.

(F) An inmate initially assigned to Work Group D-1 by the Institution Classification Committee due to placement in ASU, SHU, PSU, or other segregated housing unit pursuant to section 3044(b)(5) and who 1) was not designated for non-disciplinary segregation by the Institution Classification Committee, 2) was otherwise eligible for the assignment to Work Group M pursuant to sections 3044(b)(8)(A) or 3044(b)(8)(B) during the period of segregated housing, and 3) was not found guilty of the serious rule violation which was the reason for ASU or other segregated housing placement, shall be made whole by retroactive assignment to Work Group M beginning with the effective date that Work Group D-1 was originally imposed and for the same number of days he or she was assigned to Work Group D-1.

(G) Except when otherwise precluded by this section, an inmate 1) who undergoes reception center processing with a permanent disability that impacts placement or who is receiving dialysis treatment, 2) who, as determined by a classification committee, experienced an extended stay in the reception center beyond 60 days solely due to the disability, and 3) qualifies for the assignment of Work Group M pursuant to this section, shall be assigned Work Group M effective the 61<sup>st</sup> day of the stay at the reception center. Work Group M may be assigned retroactively to May 1, 2017. However, Good Conduct Credit awarded consistent with section 3043.2(b)(5)(A) shall be limited in accordance with section 3043(c).

**Subsection 3044(b)(8) is renumbered 3044(b)(9) and amended to read:**

(98) Work Group U (Unclassified). An inmate undergoing reception center processing shall be assigned to placed in Work Group U from the date of their reception until classified at their assigned institution, except when the inmate is assigned Work Group M by a classification committee prior to the completion of reception center processing in accordance with section 3044(b)(8)(G).

**Subsections 3044(c) through 3044(c)(6)(A)1. are unchanged but shown as reference.**

(c) Privileges. Privileges for each work group shall be those privileges earned by the inmate. Inmate privileges are administratively authorized activities and benefits required of the secretary, by statute, case law, governmental regulations, or executive orders. Inmate privileges shall be governed by an inmate's behavior, custody classification and assignment. A formal request or application for privileges is not required unless specified otherwise in this section. Institutions may provide additional incentives for each privilege group, subject to availability of resources and constraints imposed by security needs.

(1) To qualify for privileges generally granted by this section, an inmate shall comply with rules and procedures and participate in assigned activities.

(2) Privileges available to a work group may be denied, modified, or temporarily suspended by a hearing official at a disciplinary hearing upon a finding of an inmate's guilt for a disciplinary offense as described in sections 3314 and 3315 of these regulations or by a classification committee action changing the inmate's custody classification, work group, privilege group, or institution placement.



(3) Disciplinary action denying, modifying, or suspending a privilege for which an inmate would otherwise be eligible shall be for a specified period not to exceed 30 days for an administrative rule violation or 90 days for a serious rule violation.

(4) A permanent change of an inmate's privilege group shall be made only by classification committee action under provisions of section 3375. Disciplinary or classification committee action changing an inmate's privileges or privilege group shall not automatically affect the inmate's work group classification.

(5) No inmate or group of inmates shall be granted privileges not equally available to other inmates of the same custody classification and assignment who would otherwise be eligible for the same privileges.

(6) Changes in privilege group status due to the inmate's placement in lockup:

(A) An inmate housed in an ASU, SHU, or PSU shall be designated Privilege Group D with the exception of:

1. Inmates designated as NDS who shall retain their privilege group prior to ASU placement;

**Subsection 3044(c)(6)(A)2. is amended to read:**

2. Inmates placed in the Security Threat Group (STG) Step Down Program (SDP) in accordance with ~~Section 3044(i)~~ 3044(g)(2);

**Subsections 3044(c)(6)(A)3. and 3044(c)(6)(A)4. are unchanged but shown as reference.**

3. Inmates who are assigned to the Debrief Processing Unit (DPU) in accordance with Section 3378.7;

4. Inmates who are on Administrative SHU status in accordance with section 3044(j).

**Subsection 3044(c)(7) is amended to read:**

(7) An inmate in a ~~Reentry~~ Hub-program assignment shall be eligible for available privileges subject to participating in assignment programs and shall not require a privilege group designation.

**Subsections 3044(c)(8) through 3044(d)(1)(A) are unchanged but shown as reference.**

(8) An inmate's privileges shall be conditioned upon each of the following:

(A) The inmate's compliance with procedures governing those privileges.

(B) The inmate's continued eligibility.

(C) The inmate's good conduct and satisfactory participation in an assignment.

(9) Inmates returned to custody from parole may be eligible to receive privileges based upon their satisfactory participation in an assignment.

(10) When assigned to a RCGP facility, the inmate's privileges shall be in accordance with section 3378.9.

(d) Privilege Group A:

(1) Criteria:

(A) Full-time assignment as defined in section 3044(a).

**Subsections 3044(d)(1)(B) and 3044(d)(1)(C) are amended to read:**

(B) An inmate diagnosed by a physician ~~and/or psychiatrist~~ mental health clinician as totally disabled shall remain in Privilege Group A, unless changed by disciplinary action.

(C) An inmate designated by a physician ~~and/or psychiatrist~~ mental health clinician as partially disabled pursuant to section ~~3044(b)(1)(E)~~ 3044(a) shall remain in Privilege Group A, unless changed by disciplinary action.

**Subsections 3044(d)(2) and 3044(d)(2)(A) are unchanged but shown as reference.**

(2) Privileges for Privilege Group A are as follows:

(A) Family visits limited only by the institution/facility resources, security policy, section 3177(b), or other law.

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

(B) Visits during non-work/training hours, limited only by availability of space within facility visiting hours, or during work hours when extraordinary circumstances exist as defined in section 3045.2(ed)(2). NDS inmates in Privilege Group A are restricted to non-contact visits consistent with those afforded to other inmates in ASU.

**Subsections 3044(d)(2)(C) through 3044(e)(1) are unchanged but shown as reference.**

(C) Maximum monthly canteen draw as authorized by the secretary.

(D) Telephone access during the inmate's non-work/training hours limited only by institution/facility telephone capabilities. Inmates identified as NDS are permitted one personal telephone access per week under normal operating conditions.

(E) Access to yard, recreation and entertainment activities during the inmate's non-working/training hours and limited only by security needs.

(F) Excused time off as described in section 3045.2.

(G) The receipt of four inmate packages, 30 pounds maximum weight each, per year. Inmates may also receive special purchases, as provided in subsections 3190(j) and (k).

(e) Privilege Group B:

(1) Criteria, any of the following:

**Subsection 3044(e)(1)(A) is amended to read:**

(A) Half-time assignment as defined in section 3044(a) ~~or involuntarily unassigned as defined in section 3044(a)~~ or involuntarily unassigned as defined in section 3044(b).

**Subsections 3044(e)(1)(B) through 3044(e)(2)(A) are unchanged but shown as reference.**

(B) A hearing official may temporarily place an inmate into the group as a disposition pursuant to section 3314 or 3315.

(2) Privileges for Privilege Group B are as follows:

(A) One family visit each six months, unless limited by section 3177(b) or other law.

**Subsection 3044(e)(2)(B) is amended to read:**

(B) Visits during non-work/training hours, limited only by availability of space within facility visiting hours, or during work hours when extraordinary circumstances exist, as defined in section 3045.2(d)(2). NDS inmates in Privilege Group B are restricted to non-contact visits consistent with those afforded to other inmates in ASU.

**Subsections 3044(e)(2)(C) through 3044(f)(2)(E) are unchanged.**

**Subsection 3044(g) is unchanged but shown as reference.**

(g) Privilege Group D:

**Subsection 3044(g)(1) is amended to read:**

(1) Criteria: Any inmate, with the exception of validated STG affiliates participating in the SDP or designated NDS inmates, housed in a special segregation unit, voluntarily or under the provisions of

sections 3335-3345 of these regulations who is not assigned to either a full-time or half-time assignment.

Inmates assigned to sSteps 1 through 4 of the SDP while completing the Pre-Debrief Intake Panel (DIP) portion of Phase One of the debrief process, as described in section 3378.5(h), are entitled to privileges and non-privileges commensurate with the SDP step to which the offender is currently assigned, in accordance with Ssections 3044(i) and 3378.7.

**Subsections 3044(g)(2) through 3044(h)(2)(F) are unchanged.**

**Subsection 3044(i) is unchanged but shown as reference.**

(i) Privilege Group S1 through S4:

**Subsections 3044(i)(1) through 3044(i)(3)(C)11. are unchanged.**

**Subsection 3044(i)(3)(D) is unchanged but shown as reference.**

(D) S4 for Step 4.

**Subsections 3044(i)(3)(D)1. through 3044(i)(3)(D)5. are unchanged.**

**Subsection 3044(i)(3)(D)6. is amended to read:**

6. Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week. Participation on small group yards as determined by the Institution Classification Committee (ICC).

**Subsections 3044(i)(3)(D)7. through 3044(j)(4) are unchanged.**

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 2700, 2701 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); Sections 2932, 2933, 2933.05, 2933.3, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal.App.3d 1224 (1988).

## **Subchapter 4.**

### **General Institution Regulations**

#### **Article 9.5 Case Records**

##### **~~3371.1. Computation of Time and Preprison Credit.~~**

~~(a) The method of computing time and applying credit to an inmate's term is governed by the laws applicable on the date the inmate's crime is committed.~~

~~(b) Credit towards an inmate's term shall be administratively applied if the credits are not reflected on legal documents for:~~

~~(1) Time spent under an indeterminate sentence as a mentally disordered offender pursuant to Penal Code (PC) section 1600.5.~~

~~(2) A commitment received on or after September 15, 1965 where the inmate spent time for diagnostic observation pursuant to PC section 1203.03.~~

~~(3) Time spent for a Welfare and Institutions Code (W&IC) section 3200 commitment.~~

~~(4) Time spent in the California Youth Authority/Division of Juvenile Justice on the same offense for which they were committed to the department pursuant to W&IC section 1782.~~

~~(c) If upon application of preprison credit the inmate is overdue for release, they shall be released within five working days.~~

~~(d) Only the following credit issues shall be referred by the department to the sentencing court:~~

- ~~(1) Any case where credit was granted for an in-prison offense, a crime committed while the inmate was on escape status, or where an inmate's consecutive case was sentenced after their received date and included credit for that time served.~~
- ~~(2) When an inmate's case was resentenced and the court credited the inmate with time being served in the department.~~
- ~~(3) When an inmate's probation is revoked and the inmate is granted more than 60 days custody credit which is also being credited by the department.~~
- ~~(4) Cases where legal documents reflect any conflict in credit.~~
- ~~(5) Cases where the court granted Penal Code section 4019 credit at the rate of day for day.~~
- ~~(e) Any preprison credit towards an indeterminate sentence shall be applied within one week after the inmate's parole date or term is established or fixed by the Board of Prison Terms.~~
- ~~(f) No preprison credit shall be applied towards time assessed for prior indeterminate sentence terms.~~
- ~~(g) The inmate's received date is counted as a full day regardless of the actual time of day received; for each day thereafter, they shall serve the full 24-hour period to receive credit.~~
- ~~(h) An inmate who has been convicted of a felony, and sentenced under Penal Code Section 667(b) through (i), or Penal Code Section 1170.12, with one or more prior felony convictions, as defined in Penal Code Section 667.5(c) and/or 1192.7(c), shall not be awarded behavior and/or work credits in an amount that exceeds one fifth of the total term of imprisonment imposed. The limitation on the inmate's credit accrual shall commence on the received date, as defined in section 3000, even if the inmate's sentence has been modified as the result of a stricken prior felony conviction under Penal Code Section 1385. There will be a maximum credit accrual rate of 20% so long as the trial court continues to use at least one prior felony conviction, as defined in PC Section 667.5(c) and/or 1192.7(c), for the purposes of determining the term of imprisonment upon resentencing.~~

**Section 3371.1 Computation of Term and Credit. Is adopted to read:**

(a) Terms of incarceration, credit, and release dates shall be analyzed, processed, and calculated by case records staff based upon information provided by the court, custody staff, and program staff. All documents received from the court shall be reviewed by case records staff and if any apparent sentencing discrepancies are found, case records staff shall refer them to the court for resolution. No more than 30 days after case records staff complete the computation of a term or credit, case records staff shall send notification to the affected inmate of his or her release date and any subsequent change to his or her release date.

(ba) Authority.

(1) The length of an inmate's term is governed by the laws applicable on the date the inmate's crime is committed.

(2) The credit to be applied to an inmate's term is governed by Section 32 of Article 1 of the California Constitution, and the regulations promulgated pursuant thereto.

(cb) Definitions.

(1) Credit.

(A) Pre-Sentence Credit. Pre-sentence credit is the credit granted by the sentencing court for time served up to and including the sentencing date pursuant to sections 2900.1, 2900.5, 2933.1, and 4019 of the Penal Code. Any credit granted by the sentencing court for time served after the date the inmate is received into the jurisdiction of the department shall not be applied but instead shall be awarded by the department pursuant to this chapter.

(B) Post-Sentence Credit. Post-sentence credit is the credit awarded~~granted~~ by the department for actual days served in county jail between the date of the inmate's sentencing and the date the inmate is received into the jurisdiction of the department.

(C) Vested credit. Vested credit is the Good Conduct Credit awarded by the department pursuant to section 3043.2 of this title based on the number of actual days served in county jail between the date of the inmate's sentencing and the date the inmate is received into the jurisdiction of the department. Vested credit shall not be forfeited.

(2) Dead time. Dead time is the length of time an inmate is out of custody due to being at-large while on escape status, at-large while absconded on parole, released on bail, released on own recognizance, released on bond pending appeal, or prematurely released. Dead time shall not be included in any determination of credit.

(3) Release Date.

(A) Earliest Possible Release Date. The Earliest Possible Release Date is the earliest date an inmate serving a determinate term may be released from one single or aggregated term. The Earliest Possible Release Date is a fluid date as credit may be earned and forfeited throughout the inmate's incarceration.

(B) Maximum Release Date. The maximum release date is the date an inmate shall be released from one single or aggregate term if they serve the full-term imposed by a court of law, taking into consideration the (1) pre-sentence credit; (2) post-sentence credit; (3) vested credit; (4) administrative credit; and (5) dead time. Each aggregate term or fully consecutive term of incarceration will have its own Maximum Release Date.

(4) Terms of Incarceration.

(A) A term of incarceration is the period of time imposed by the court for a single offense.

(B) An aggregate term of incarceration is the sum of the following:

1. the principal term;

2. any subordinate term, ~~and~~;

3. any additional term imposed for applicable enhancements, including enhancements for prior convictions, prior prison terms, and section 12022.1 of the Penal Code;

4. any term or enhancement that is stayed; and

5. any term or enhancement where the punishment is stricken.

(C) A fully consecutive term of incarceration begins when the inmate would have otherwise been released from prison.

~~(d)~~ Administrative Credit. Credit shall be applied administratively to an inmate's term, if not awarded by the sentencing court, pursuant to Penal Code sections 2900.1 and 2931, as well as the following~~to an inmate's term for~~:

(1) A commitment received on or after September 15, 1965, where the inmate served~~spent~~ time for diagnostic observation pursuant to section 1203.03 of the Penal Code; ~~and~~

(2) Time served~~spent~~ in the Division of Juvenile Justice on the same offense for which they were committed to the department pursuant to section 1782 of the Welfare and Institutions Code; and

(3) Time served in the Department of State Hospitals on the same offense for which they were committed to the department.

~~(e)~~ Sentences Deemed Served.

(1) Notwithstanding subsection 3043(c) of this division, if the application of pre-sentence credit, post-sentence credit, vested credit, and administrative credit results in a determination that the

inmate's sentence was served in full prior to their arrival in prison, he or she shall be released no later than ten business days after their arrival in prison.

(2) Notwithstanding subsection 3043(c) of this division, if an abstract of judgment, amended abstract of judgment, or other court order is received for an inmate who has been incarcerated by the department for at least five business days and it is determined that the inmate is immediately eligible for release or eligible for release within the following five business days, he or she shall be released no later than five business days after receipt of the abstract of judgment, amended abstract of judgment, or court order.

(3) Notwithstanding subsection 3043(c) of this division, if notification is received from the Board of Parole Hearings to release an inmate granted parole pursuant to sections 3041 or 3051 of the Penal Code or section 3055 of the Penal Code beginning January 1, 2018, he or she shall be released no later than five business days after receipt of the notification.

(fe) What Constitutes a "Day."

(1) In general, an inmate must serve a full 24-hour period to receive credit for that day.

(2) The day an inmate is received in prison shall be counted as a full day regardless of the actual time of day he or she is received.

(3) The day an inmate is paroled or discharged shall be counted as the first full day of parole supervision or post-release community supervision, if applicable, regardless of the actual time of day he or she is paroled or discharged.

(gf) Consecutive, Concurrent, or Stayed Violent Felonies.

(1) If a single sentencing court or separate sentencing courts impose ~~one or more consecutive terms or enhancements that result in one~~ an aggregate term of incarceration as defined in subsection (c)(4)(B) of this section and at least one conviction~~term~~ or enhancement is listed in subdivision (c) of section 667.5 of the Penal Code, then all conviction~~terms~~ and enhancements shall be considered violent for the purpose of Good Conduct Credit; ~~even if the term or enhancement is stayed by the court.~~

(2) While an inmate is serving a term for a violent offense as defined in subdivision (c) of section 667.5 of the Penal Code concurrently with a term for a non-violent offense, Good Conduct Credit shall be determined based on the violent offense. Upon completion of the term for a violent offense, Good Conduct Credit shall be determined based on the remaining non-violent offense.

(hg) Striking the Strike Allegation. When allegations pursuant to section 1170.12 or subdivisions (b) through (i) of section 667 of the Penal Code are stricken by the sentencing court in accordance with subdivisions (a) or (c) of section 1385 of the Penal Code, Good Conduct Credit will be applied based on the provisions found in section 3043.2(b)(43) of this title.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b), Sections ~~5058 and 2930-2935 et seq.~~, 2930, 2931, 2932, 2932.5, 2933, 2933.05, 2933.1, 2933.2, 2933.3, 2933.5, 2933.6, 2934, 2935, and 5058 Penal Code. Reference: Sections 667, 667.5, 1168, 1170, 1170.1, 1170.12, 1192.7, 1203, 2900, 2900.1, 2900.5 and 5054, Penal Code; Section 1782, Welfare and Institutions Code; *People v. Caerres* (1997) 52 Cal. App. 4th 106, 60 Cal. Rptr. 2d 415; *People v. Buchalter* (2001) 26 Cal. 4th 994A, 108 Cal. Rptr. 2d 625; and *People v. Superior Court (Romero)* (1996) 13 Cal. 4th 497, 53 Cal. Rptr. 2d 789. *In re Thompson* (1985) 172 Cal.App.3d. 256 *In re Thomas* (1982) 132 Cal.App.3d 779 [subsection (b)(2)(C) above]; *People v. Ramos* (1996) 50 Cal.App.4<sup>th</sup> 810 [subsection (f)(1) above]; *In re Pope* (2010) 50 Cal.4th 777 [subsection (f)(1) above]; *In re Pacheco* (2007) 155 Cal.App.4th

1439 [subsection (f)(1) above]; *In re Reeves* (2005) 35 Cal.4th 765 [subsection (f)(2) above]; and ~~*re*~~ *People v Sengdara*; (Super. Ct. Orange County, 2016, No. M-16673XA;) [subsection (g) above].