

# Memorandum

Date: September 11, 2019

To: Associate Directors, Division of Adult Institutions  
Wardens  
Americans with Disabilities Act Coordinators  
Commissioners, Board of Parole Hearings

Subject: **ATTORNEY CELL SIDE ACCESS**

The purpose of this memorandum is to outline standards for inmate attorneys' cell-side access to their clients to prepare for, or attend parole consideration hearings before the Board of Parole Hearings.

Parole hearings are subject to due process protections. Specifically, Penal Code Section 3041.7 establishes all inmates are entitled to representation by legal counsel at parole consideration hearings. Therefore, inmate attorneys must have access to their clients for the purpose of discussing all matters in preparation for a parole consideration hearing.

Parole hearings are also subject to the Americans with Disabilities Act. Thus, the Board is mandated to provide equal access and reasonable accommodations to inmates for parole proceedings. The purpose of these mandates are to ensure inmates with disabilities are provided accommodations to allow them equal access to participate in parole hearings to the same extent as a non-disabled inmate, or to the best of their abilities.

Some inmates may be unaware of, or unable to, assert their rights as result of their disabilities. For instance, some inmates with cognitive or other mental impairments may refuse to leave their cells for attorney visits or a parole hearing without understanding the rights they have waived. To fully accommodate these inmates' right to legal counsel, access must include, but is not limited to, escorting an inmate's attorney to the inmate's cell so that the attorney can communicate about the rights associated with a parole hearing, and so the Board has sufficient information to determine the appropriate course of action regarding a parole hearing for which the inmate has refused to attend.

Therefore, institutional staff are directed to ensure inmate attorneys have access to their clients to prepare for, and attend parole consideration hearings. If a disabled inmate refuses or is unable to leave his or her cell, staff shall escort the inmate's attorney to the inmate's cell for a cell-side attorney visit. Communication between an attorney and his or her client is confidential, and staff shall allow for as much privacy as possible during these visits.

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If you have any questions, please contact Russa Boyd, Staff Counsel IV, Office of Legal Affairs,  
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