

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates newly added 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 3.35 Credits. *Article number amended; title remains unchanged.*

Section 3043. Credit Earning. *Amended as follows:*

Subsection 3043(a) is amended.

(a) General. Inmates are expected to work or participate in rehabilitative programs and activities to prepare for their eventual return to society. Inmates who comply with the regulations and rules of the Ddepartment and perform the duties assigned to them shall be eligible to earn Good Conduct Credit as set forth in section 3043.2 of this article. Unless otherwise precluded by this article, all inmates who participate in approved rehabilitative programs and activities, including inmates housed in administrative segregation housing units, in security housing units, in psychiatric services units, or in other segregated housing placement units, shall be eligible to earn Milestone Completion Credit, Rehabilitative Achievement Credit, and Educational Merit Credit as set forth in sections 3043.3, 3043.4, and 3043.5 of this article. The award of these credits, as well as Extraordinary Conduct Credit as set forth in section 3043.6 of this article, shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of this section or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole. Minimum Security Credits shall advance an inmate's release date, if eligible, as set forth in section 3043.7 of this article and subject to subdivision (c) of this section. Inmates who do not comply with the regulations and rules of the Ddepartment or who do not perform the duties assigned to them shall be subject to credit forfeiture as provided in this article.

Subsection 3043(b) is amended.

(b) Inmate Participation in Credit Earning Programs and Activities. All eligible inmates shall have a reasonable opportunity to earn ~~Good Conduct Credit~~, Milestone Completion Credit, Rehabilitative Achievement Credit, ~~and Educational Merit Credit~~, and Minimum Security Credit in a manner consistent with the availability of staff, space, and resources, as well as the unique safety and security considerations of each prison. No credit shall be awarded for incomplete, partial, or unsatisfactory participation in the credit earning

programs or activities described in this article, nor shall credit be awarded for diplomas, degrees, or certificates that cannot be verified after due diligence by Deepartment staff.

Subsection 3043(c) is amended.

(c) Release Date Restriction.

(1) The following Release Date Restriction took effect on April 13, 2017. Under no circumstance shall a determinately sentenced inmate be awarded credit or have credit restored by the Deepartment which advances ~~his or her~~ their release to a date less than 60 calendar days from the date the award or restoration of such credit is entered into the Deepartment's information technology system, except pursuant to a court order.

(2) The following Release Date Restriction shall commence on May 1, 2019 and supersede the Release Date Restriction in subsection (c)(1). Under no circumstance shall a determinately sentenced inmate be awarded credit or have credit restored by the Department which advances ~~his or her~~ their release to a date less than 15 calendar days from the date the award or restoration of such credit is entered into the Department's information technology system, except pursuant to a court order. This restriction shall instead be 45 calendar days for all inmates convicted of an offense identified in subject to the provisions found in subdivision (a) of section 3058.9 of the Penal Code, and 60 calendar days for all inmates serving a term for a violent felony, defined in subdivision (c) of section 667.5 of the Penal Code convicted of an offense identified in section 3058.6 of the Penal Code, except pursuant to a court order.

Subsection 3043(d) is amended.

(d) Participation by Inmates Sentenced as Adults and Housed In the Division of Juvenile Justice or Placed In an Alternative Custody Setting. Inmates sentenced as adults and housed in a facility administered by the Deepartment's Division of Juvenile Justice or placed in an alternative custody setting prior to parole, including a pre-parole or re-entry program, are eligible to ~~participate in~~ earn Good Conduct Credit, and participate in programs to earn Milestone Completion Credit, Rehabilitative Achievement Credit, Educational Merit Credit, ~~and~~ Extraordinary Conduct Credit, and Minimum Security Credit. Placement in an alternative custody setting means transfer of an inmate, prior to parole, to serve the remainder of ~~his or her~~ their term of incarceration in a community based re-entry facility administered by the Deepartment in lieu of confinement in a state prison or Department of Forestry and Fire Protection fire camp. For purposes of calculating when an inmate's period of incarceration will be completed pursuant to subdivision (c)(3) of section 1731.5 and subdivision (b) of section 1731.7 of the Welfare and Institutions Code, commencing January 1, 2019, the Department shall consider the Good Conduct Credit, Milestone Completion Credit, and Rehabilitative Achievement Credit that may be earned during the inmate's incarceration. Commencing May 1, 2021, the Department shall consider the Minimum Security Credit that may be earned during the inmate's incarceration.

Subsection 3043(e) is unchanged.

Note: Authority cited: Cal. Const., art. 1, sec 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 3041, 3051, 3058.6 and 3058.9, Penal Code.

Section 3043.1. Pre-Sentence Credit. *Remains unchanged.*

Section 3043.2 Good Conduct Credit. *Amended as follows:*

(a) The award of Good Conduct Credit requires that an inmate comply with Departmental regulations and local rules of the prison and perform the duties assigned on a regular and satisfactory basis.

(b) Notwithstanding any other authority to award or limit credit, effective May 1, 2017, the award of Good Conduct Credit shall advance an inmate's release date if sentenced to a determinate term or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole pursuant to the following schedule:

(1) No credit shall be awarded to an inmate sentenced to death or a term of life without the possibility of parole;

(2) ~~The following Good Conduct Credit rate One day of credit for every four days of incarceration (20%) shall be awarded to an inmate serving a determinate or indeterminate term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code, unless the inmate qualifies under paragraph (4)(B) of this section or is statutorily eligible for greater credit pursuant to this article or the provisions of Article 2.5 (commencing with section 2930) of Chapter 7 of Title 1 of Part 3 of the Penal Code;~~

(A) One day of credit for every four days of incarceration (20%), beginning May 1, 2017 through April 30, 2021; and then

(B) One day of credit for every two days of incarceration (33.3%), beginning May 1, 2021.

(3) ~~The following Good Conduct Credit rate One day of credit for every two days of incarceration (33.3%) shall be awarded to an inmate sentenced under the Three Strikes Law, under subdivision (c) of section 1170.12 of the Penal Code, or under subdivision (c) or (e) of section 667 of the Penal Code, who is not serving a term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code; unless the inmate is serving a determinate sentence and qualifies under paragraph (5)(B) of this section;~~

(A) One day of credit for every two days of incarceration (33.3%), beginning May 1, 2017 through April 30, 2021; and then

(B) One day of credit for every day of incarceration (50%), beginning May 1, 2021.

Subsection 3043.2(b)(4)(A) is incorporated into subsection 3043.2(b)(4) and is amended.

(4) One day of credit for every day of incarceration (50%) shall be awarded to: ~~(A) An~~ inmate not otherwise identified in paragraphs (1)-(3) above;

~~(B) An inmate serving a determinate term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code 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; or~~

~~(C) An inmate serving a determinate term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code who is housed at a Department of Forestry and Fire Protection fire camp in a role other than firefighter.~~

~~(5) Two days of credit for every day of incarceration (66.6%) shall be awarded to:~~

~~(A) An inmate eligible to earn day-for-day credit (50%) pursuant to paragraph (4)(A) above who is assigned to Minimum A Custody or Minimum B Custody pursuant to section 3377.1;~~

~~(B) An inmate serving a determinate sentence who is not serving a term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code 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; or~~

~~(C) An inmate serving a determinate sentence who is not serving a term for a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code who is housed at a Department of Forestry and Fire Protection fire camp in a role other than firefighter.~~

~~(c) For purposes of placement in an alternative custody setting the Department shall consider the Good Conduct Credit that may be earned during the inmate's incarceration. An inmate who is placed in an alternative custody setting, including a pre-parole or re-entry program, shall be awarded the same Good Conduct Credit that the inmate earned prior to that placement.~~

~~(cd) Credit Forfeiture and Restoration. Good Conduct Credit shall be forfeited in whole-day increments upon placement in a zero credit work group pursuant to subsection 3044(b)(4) or 3044(b)(6) or a finding of guilt of a serious rule violation in accordance with section 3323. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.~~

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 667, 667.5, 1170.2, 2930 and 3041, Penal Code.

Section 3043.3. Milestone Completion Credit. Amended as follows:

Subsections 3043.3(a) and 3043.3(b) are unchanged.

Subsection 3043.3(c) is amended.

(c) Notwithstanding any other authority to award or limit credit, effective August 1, 2017, all inmates eligible for Good Conduct Credit pursuant to section 3043.2 shall be eligible

for Milestone Completion Credit pursuant to this section. The award of Milestone Completion Credit shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole. Milestone Completion Credit shall be awarded in increments of not less than one week, but no more than twelve weeks in a twelve-month period. Milestone Completion Credit earned in excess of this limit shall be awarded to the inmate on ~~his or her~~ their next credit anniversary, defined as one year after the inmate completes ~~his or her~~ their first Milestone Completion Credit program, and each year thereafter. Upon release to parole, ~~release~~ discharge including discharge to community supervision and, or discharge from parole based on a court order, any excess credit under this section shall be deemed void. If instead an inmate ~~completes~~ finishes serving one term and immediately begins serving a consecutive term, any excess credit awarded under this section shall be applied to that consecutive term. One week is equivalent to seven calendar days.

Subsections 3043.3(d) through 3043.3(g) are unchanged.

Subsection 3043.3(h) is amended.

(h) Credit Forfeiture and Restoration. Milestone Completion Credit shall be forfeited in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 2933.05 and 3041, Penal Code.

Section 3043.4 Rehabilitative Achievement Credit. Amended as follows:

Subsection 3043.4(a) is unchanged.

Subsection 3043.4(b) is amended

(b) Notwithstanding any other authority to award or limit credit, effective August 1, 2017, all inmates eligible for Good Conduct Credit pursuant to section 3043.2 shall be eligible for Rehabilitative Achievement Credit pursuant to this section. The award of Rehabilitative Achievement Credit shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole.

Subsections 3043.4(c) through 3043.4(e)(1) are unchanged.

Subsection 3043.4(e)(2) is amended.

(2) Commencing May 1, 2019, Rehabilitative Achievement Credit earned in excess of 40 calendar days in a twelve-month period, as identified in subsections (c)(2) and (d)(2), shall be awarded to the inmate on ~~his or her~~ their next credit anniversary, defined as one year after the inmate earns ~~his or her~~ their first Rehabilitative Achievement Credit, and each year thereafter. Upon release to parole, ~~release~~ discharge including discharge to community supervision and, or discharge from parole based on a court order, any excess credit under this section shall be deemed void. If instead an inmate ~~completes~~ finishes serving one term and immediately begins serving a consecutive term, any excess credit awarded under this section shall be applied to that consecutive term.

Subsections 3043.4(f) through 3043.4(h) are unchanged.

Subsection 3043.4(i) is amended.

(i) Credit Forfeiture and Restoration. Rehabilitative Achievement Credit shall be forfeited in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Section 3041, Penal Code.

Section 3043.5. Educational Merit Credit. *Amended as follows:*

Subsection 3043.5(a) is unchanged.

Subsection 3043.5(b) is amended.

(b) Notwithstanding any other authority to award or limit credit, effective August 1, 2017, all inmates eligible for Good Conduct Credit pursuant to section 3043.2 shall be eligible for Educational Merit Credit pursuant to this section. The award of Educational Merit Credit shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole. Educational Merit Credit shall be

awarded in the increments set forth in the schedule below upon demonstrated completion of the corresponding diploma, certificate, or degree:

Subsections 3043.5(c) through 3043.5(d) are unchanged.

Subsection 3043.5(e) and 3043.5 (f) are amended.

(e) Upon release to parole, ~~release~~ discharge including discharge to community supervision and, or discharge from parole based on a court order, any excess credit under this section shall be deemed void. If instead an inmate finishes serving ~~completes~~ one term and immediately begins serving a consecutive term, any excess credit shall be applied to that consecutive term.

(f) Credit Forfeiture and Restoration. Educational Merit Credit shall ~~not~~ be forfeited ~~due to disciplinary action in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted~~. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Note: Authority cited: Cal. Const., art. 1, sec. 32 (b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 2053.1 and 3041, Penal Code.

Section 3043.6. Extraordinary Conduct Credit. Amended as follows:

Subsection 3043.6(a) is unchanged.

Subsection 3043.6(b) is amended.

(b) The award of such credit shall advance the inmate's release date if sentenced to a determinate term subject to subdivision (c) of section 3043 or advance the inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole.

Subsections 3043.6(c) and 3043.6(d) are amended.

(c) Upon release to parole, ~~release~~ or discharge including discharge to community supervision and, or discharge from parole based on a court order, any excess credit under this section shall be deemed void. If instead an inmate finishes serving ~~completes~~ one term and immediately begins serving a consecutive term, any excess credit shall be applied to that consecutive term.

(d) Credit Forfeiture and Restoration. Extraordinary Conduct Credit shall ~~not~~ be forfeited ~~due to disciplinary action in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is~~

exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Note: Authority cited: Cal. Const., art. 1, sec. 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 2935 and 3041, Penal Code.

Existing Section 3043.7 is renumbered to 3044.1

New Section 3043.7. Minimum Security Credit. Added as follows:

(a) Notwithstanding any other authority to award or limit credit, effective May 1, 2021, all inmates eligible for Good Conduct Credit pursuant to section 3043.2 and assigned to Work Group M (“Minimum Custody or otherwise eligible for Minimum Custody”) or Work Group F (“Minimum B Custody and Firefighting or Non-Firefighting Camp Placement”) as described in Article 3.4, section 3044, shall be eligible for Minimum Security Credit pursuant to this section. No credit shall be awarded to an inmate sentenced to death or a term of life without the possibility of parole.

(b) The award of such credit shall advance the release date of eligible inmates, subject to section 3043(c).

(c) Minimum Security Credit shall be awarded in increments of 30 days upon completion of 30 consecutive calendar days in Work Group M or F.

(d) Within ten business days of completing 30 consecutive calendar days in Work Group M or F, staff designated by the Warden at each institution shall ensure the credit is awarded to the inmate in the Department’s information technology system.

(e) Upon release to parole, discharge including discharge to community supervision, and discharge based on a court order, any excess credit under this section shall be deemed void. If instead an inmate finishes serving one term and immediately begins serving a consecutive term, any excess credit shall be applied to that consecutive term.

(f) Credit Forfeiture and Restoration. Minimum Security Credit shall be forfeited in whole-day increments upon a finding of guilt of a serious rule violation in accordance with section 3323, only after all Good Conduct Credit is exhausted. Forfeited credit under this section shall be restored if the disciplinary action is reversed pursuant to an administrative appeal or court of law. Forfeited credit may also be restored in accordance with Article 5.5 of Subchapter 4 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations.

Article 3.4. Inmate Work and Privileges. *New Article Title adopted.*

Section 3044. Inmate Work Groups and Privilege Groups. *Amended as follows:*

Subsections 3044(a) through 3044(b)(3) are unchanged

Subsection 3044(b)(4) is amended.

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

(A) Any inmate who twice refuses to accept assigned housing, 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 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 subsection 3044(b)(6)(C).

(B) An inmate assigned to 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~~ their previous work group upon completion of the assignment to Work Group C ~~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 inmate shall also be referred to a classification committee for placement on an appropriate waiting list.

Subsection 3044(b)(5) is unchanged.

Subsection 3044(b)(6) is amended.

(6) Work Group D-2 (Lockup Status: ~~Zero Credit~~).

(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. Following completion of the period of assignment to Work Group D-2 ~~of credit forfeiture~~, the inmate shall be re-evaluated by a classification committee for assignment to another work group.

(B) 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 subsection 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 assignment to Work Group D-2 ~~credit forfeiture~~, the inmate shall be re-evaluated by a classification committee for assignment to another work group.

(C) An inmate in ASU, SHU, PSU, or other segregated housing, 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, 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, PSU, or other segregated housing, may be 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.

~~(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) is amended.

(7) Work Group F (Minimum B Custody and Firefighting or Non-Firefighting Camp Placement). Assignment to Work Group F awards ~~Good Conduct Credit~~ Minimum Security Credits 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)~~ 3043.7.

(A) An inmate assigned to 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 shall be assigned to Work Group F.

(B) An inmate assigned to Minimum B Custody who is placed in a Department of Forestry and Fire Protection fire camp for assignment to a non-firefighter position shall be assigned to Work Group F.

(C) An inmate placed in Work Group F 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 w~~Work g~~Group C~~ Group C pursuant to sections 3044(b)(4) or Work Group D2 pursuant to section 3044(b)(6), or 4) otherwise removed from this assignment due to safety or security considerations, shall be 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), 3043.2(b)(5)(B), or 3043.2(b)(5)(C)~~ Minimum Security Credits pursuant to section 3043.7. An inmate who has been removed from this assignment under the circumstances described above may be re-assigned to Work Group F, after an appropriate period of time, by a classification committee.

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

Subsection 3044(b)(8) is amended.

(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)~~ Minimum Security Credits pursuant to section 3043.7.

(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~~ Minimum Security Credit awarded pursuant to section ~~3043.2(b)(5)(A)~~3043.7 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 ~~Institution~~ cClassification cCommittee, shall be assigned to Work Group M. Work Group M may be assigned retroactively to May 1, 2017. However, ~~Good Conduct Credit~~ Minimum Security Credit awarded consistent with section ~~3043.2(b)(5)(A)~~3043.7 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 Ddepartment for the felony.
3. The inmate's central file documents that the agency communicated to the Ddepartment 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 w~~Work gGroup C pursuant to sections 3044(b)(4) or Work Group D2 pursuant to section 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~~ Minimum Security Credits 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)~~ 3043.7. 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~~ their 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~~ they were 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 61st day of the stay at the reception center. Work Group M may be assigned retroactively to May 1, 2017. However, ~~Good Conduct Credit~~ Minimum Security Credits awarded consistent with section ~~3043.2(b)(5)(A)~~ 3043.7 shall be limited in accordance with section 3043(c).

Subsections 3044(b)(9) through 3044(j) 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).

Section 3044.1. Special Assignments. *Section moved from Section 3043.7; title remains unchanged. Amended as follows:*

Subsections 3044.1(a) through 3044.1(c) are unchanged.

Subsection 3044.1(d) is amended.

(d) Medical or mental health care status determination:

(1) When an inmate has a disability that limits ~~his or her~~ their ability to participate in a work, academic, Career Technical Education program or other such program, medical or mental health 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 (Chrono). The medical or mental health 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 the inmate to a classification committee for review. The classification committee shall have 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, 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~~ 3044.1(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 inmate on temporary medical or psychiatric unassignment status shall be scheduled for classification review any time there is a change in ~~his or her~~ their physical or mental impairment, or no less than every six months for reevaluation. The ~~credit earning work group~~ work group 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~~ their impairment, the ~~credit earning work group~~ work group status shall be changed to be in accordance with subsection 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 subsection 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~~ work group 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 subsection 3044(b)(8).

Subsections 3044.1(e) through 3044.1(h) are unchanged.

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

Section ~~3043.8~~ 3044.2. Impact of Transfer on Work Groups on ~~Credit Earning~~.
Section renumbered from Section 3043.8; Title amended. Section amended as follows:

Subsections 3044.2(a) and 3044.2(a)(1) are unchanged.

Subsection 3044.2(a)(2) is amended.

(2) With the exception of inmates assigned to Work Group F, an inmate transferred for non-adverse reasons shall retain their work and privilege group status. Inmates assigned to Work Group F shall revert to Work Group A-1M effective the date removed from camp or institution fire fighter assignment or as appropriate per CCR 3044.

Subsections 3044.2(a)(3) through 3044.2(b)(2) are unchanged.

Subsection 3044.2(c) is amended.

(c) Adverse transfers.

(1) Adverse transfers are defined as a transfer resulting from any in-custody documented misbehavior or disciplinary that may or may not have resulted in an inmate's removal from current program.

(2) If an inmate is removed from a program for adverse reasons and is subsequently exonerated of the charges, the ~~credit earning status~~ work group shall be designated as though the inmate had not been removed from the assignment.

(3) Effective on the date of transfer an inmate in Work Group A-1 or F who receives an adverse transfer shall be reclassified to Work Group A-2 by the sending institution. The inmate shall remain in Work Group A-2 until reclassified by the receiving institution.

(4) An inmate in Work Group A-2, C or D at the time of transfer shall be retained in that group status until reclassified at the receiving institution.

Subsection 3044.2(d) is unchanged

Subsection 3044.2(e)(2) is deleted.

(e) Special housing unit transfers.

(1) Inmates found guilty of a credit loss offense which could result in a security housing unit (SHU) determinate term shall be evaluated for SHU assignment by a classification committee.

~~(2) Inmates placed in a SHU, PSU, or in ASU for reasons specified in section 3043.4 shall be placed in workgroup D-2. All other inmates in SHU, PSU, or ASU shall be placed in Work Group D-1. The effective date of both workgroups shall be the first day of placement into SHU, PSU, or ASU.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1203.8, 1364, 2684, 2690, 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

Article 3.5. Inmate Work Timekeeping. *Article added.*

Section 3045. Timekeeping and Reporting. *Title and text remain unchanged.*

Section 3045.1. Timekeeping for Inmates in Administrative Segregation. *Amended as follows:*

(a) A classification committee shall evaluate the reasons for an inmate's administrative segregation (ASU) placement to ensure appropriate credits are awarded the inmate. If the placement was for: ~~(1) A~~ disciplinary infraction for which the finding was not guilty or pending an investigation where the inmate was released, the inmate shall retain their work group status at the time of their placement in ASU unless otherwise impacted by a classification or disciplinary action.

~~(2) A disciplinary infraction for misconduct described in section 3043.4 for which the finding was guilty, the inmate shall remain in Work Group D-2 for the period of the credit loss assessment effective the date of their placement in ASU, whether or not a SHU term was assessed.~~

Note: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.05, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal. App. 3d 1224.

Article 3.6. Inmate Work Benefits. *Article added.*

Section 3046. Workers' Compensation for Inmates. *Section number amended; title and text remain unchanged.*

Section 3046.1, 3047. Unemployment Compensation and Disability Insurance. *[Repealed] Section number amended; title and text remain unchanged.*