



Department of Corrections and Rehabilitation
NOTICE OF CHANGE TO REGULATIONS

Sections: 3000, 3045, 3077.3, 3078.4, 3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5, 3084.6, 3084.7, 3084.8, 3084.9, 3085, 3086, 3134.1, 3136, 3137, 3141, 3173.1, 3179, 3193, 3220.4, 3230, 3282, 3369.5, 3378.4, 3383, 3475, 3476, 3477, 3478, 3479, 3480, 3480.1, 3481, 3482, 3483, 3484, 3485, 3486, 3488, 3491, 3492, 3548, 3563, 3630, 3723	NCR Number: 21-08	Publication Date: August 27, 2021
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INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendment of the above-mentioned sections of the California Code of Regulations, Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Inmate and Parolee Grievances and Appeals.

PUBLIC COMMENT PERIOD

Any person may submit written comments about the proposed regulations by mail 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. The public comment period will close on **October 12, 2021**. All written comments must be received or postmarked by this date.

PUBLIC HEARING INFORMATION

Due to the COVID-19 public health emergency, CDCR will utilize teleconference public hearings, consistent with the Governor's Executive Order N-29-20 and guidelines issued by the California Department of Public Health. Comments provided at this teleconference public hearing will be treated identically as written comments submitted during the public comment period. A public hearing will be held on **October 12, 2021**. The hearing will begin at **10:00 am** and will continue until all comments are received, or until **12:00 pm**, whichever is later. If you would like to participate by teleconference: Call 1-877-411-9748 (TTY/TDD: Dial 711). When prompted, enter participant code 5809744. The purpose of the hearing is to receive comments about these proposed regulations. 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.

POSTING

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each CDCR facility and field office not later than five calendar days after receipt. Also, institutions and 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. 05/19), Certification of Posting, shall be returned to RPMB by mail or email. See Department Operations Manual Section 12010.6.7 for posting and certification of posting procedures.

CONTACT PERSON

Inquiries regarding this Notice should be directed to Josh Jugum, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2266, or by e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to Howard E. Moseley, Office of Appeals, at (916) 255-0657.

Original Signed By:

JENNIFER BARRETTO
Undersecretary, Administration
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), proposes to amend Sections 3000, 3045, 3077.3, 3078.4, 3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5, 3084.6, 3084.7, 3084.8, 3084.9, 3085, 3086, 3134.1, 3136, 3137, 3141, 3173.1, 3179, 3193, 3220.4, 3230, 3282, 3369.5, 3378.4, 3383, 3475, 3476, 3477, 3478, 3479, 3480, 3480.1, 3481, 3482, 3483, 3484, 3485, 3486, 3488, 3491, 3492, 3548, 3563, 3630, and 3723 of Title 15, Division 3, Chapter 1, regarding Inmate and Parolee Grievances and Appeals.

PUBLIC COMMENT PERIOD

The public comment period begins **August 27, 2021** and closes on **October 12, 2021**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to RPMB@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

PUBLIC HEARING INFORMATION

Due to the COVID-19 pandemic and public health emergency, CDCR will utilize teleconference for its hearings, consistent with the Governor's Executive Order N-29-20 and guidelines issued by the California Department of Public Health. Comments provided at this teleconference public hearing will be treated identically as written comments submitted during the public comment period. A public hearing will be held on **October 12, 2021**. The hearing will begin at **10:00 am** and will continue until all comments are received, or until **12:00 pm**, whichever is later. If you would like to participate by teleconference: Call 1-877-411-9748 (TTY/TDD: Dial 711). When prompted, enter participant code 5809744. The purpose of the hearing is to receive comments about these proposed regulations. 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.

CONTACT PERSONS

Primary Contact

Josh Jugum
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Program Contact

Howard E. Moseley
Telephone: (916) 255-0657
Office of Appeals

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished. **PC Section 5054** provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and

imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

PC Section 5058.3 authorizes the Director to certify in a written statement filed with Office of Administrative Law that the operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

In this regulatory action, the Secretary proposes to completely restructure the inmate and parolee grievance process and the appeal of grievances process, as well as the organizational structure of the Office of Appeals within the department.

This action will:

- Restructure the process for handling all inmate and parolee grievances and appeals of grievances. This process is the non-judicial means provided by the department to address inmate and parolee claims. The restructuring is intended to improve responsiveness and transparency, reduce real or perceived bias and conflict of interest, ensure the claimant receives a clear response to each claim submitted, and increase access to the process by reducing strict filing requirements that may have made it more difficult for claimants to bring their claims to the department's attention.
- Clarify the roles and responsibilities of department staff at the institutional or regional level Offices of Grievances and the statewide-level Office of Appeals.
- Expedite the processing of inmate and parolee grievances which contain information concerning personal safety, institutional security, sexual misconduct, or, in specified circumstances, a claim that the inmate's Earliest Possible Release Date is erroneous.
- Move the Office of Appeals from under the Division of Adult Institutions (the division responsible for day-to-day security operations at State prisons) to a separate division within the department to improve independence and reduce bias, whether real or perceived, in the handling of inmate and parolee appeals of grievances.

DOCUMENTS INCORPORATED BY REFERENCE

CDCR Form 602-1 (Rev. 01/22), Grievance

CDCR Form 602-2 (Rev. 01/22), Appeal of Grievance

CDCR Form 602-3 (Rev. 01/22), Request to Implement Remedies

CDCR Form 1872 (Rev. 03/20), Inmate Participation Agreement – Joint Venture Program (JVP)

CDCR Form 1819 (Rev. 07/18), Notification of Disapproval for Mail/Packages/Publications

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

These regulations will significantly improve the department's handling of inmate and parolee grievances and appeals of grievances which will improve departmental transparency, integrity, and staff accountability.

EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations that concern inmate and parolee grievances and appeals.

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 - 17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency:

CDCR will submit a Budget Change Proposal for inclusion in the 2022-23 Governor's Budget to provide ongoing resources to support the implementation of these regulations (approx. \$14.2 million annually). CDCR is anticipating absorbing the costs identified in the current fiscal year (2021-22).

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

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 ON BUSINESS

The department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small businesses because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by incentivizing inmates and parolees to resolve complaints at the lowest level possible, thus avoiding expensive and time-consuming litigation. In addition, to the extent these regulations improve the transparency and efficiency of the department's grievance and appeal process, these regulations may benefit the welfare of California residents by modeling non-confrontational techniques for dispute resolution which will enhance the rehabilitative mission of the department.

CONSIDERATION OF ALTERNATIVES

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

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: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department's contact person.

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, amends or repeals 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 at least 15 days after the date on which they are made available.

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text; underline indicates added text.

California Code of Regulations, Title 15. Crime Prevention and Corrections Division 3. Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

3000. Definitions.

*

~~Appeal means a formal request for, or the act of requesting, an official change of a decision, action, or policy.~~

*

~~Grievance means a complaint about a decision, action, or policy which an inmate, parolee or staff wish to have changed.~~

*

Project, as used in sections ~~3475~~ 3465 through ~~3478~~ 3468, means a proposal of something to be done for which a contract has not yet been awarded.

*

Note: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5007.7, 5009, 5050, 5054, 5068, 7000 et seq., 11180 and 11191, Penal Code; Sections 1132.4, 1132.8 and 1203(b)(1), Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; *Madrid v. Cate* (USDC ND Cal. C90-3094 TEH); *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223; *Mitchell v. Cate*, USDC ED 2:08-CV-01196-TLN-EFB; *In re Garcia* (2012) 202 Cal.App.4th 892; and *Quine v. Beard*, No. C 14-02726 JST.

3045. Timekeeping and Reporting.

(a) Inmate timekeeping logs. The attendance and/or participation of each assigned inmate shall be recorded on an approved timekeeping log. If the assignment began or ended during the reporting month, the date(s) of such activity shall be recorded on the timekeeping log. Only the symbols designated on the timekeeping log shall be used to document the inmate's attendance. The symbol(s) and applicable hours for each day shall be recorded in the space corresponding to the calendar day. This log shall be the reference for resolving ~~complaints~~ grievances or appeals and shall be retained at a secure

location designated by the facility management for a period of 4 years from the date of completion.

Subsections 3045(a)(1) through 3045(b) remain unchanged.

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.

3077.3. Senate Bill 618 Participant Institutional Programming.

Subsections 3077.3(a) through 3077.3(f)(2)(C)(3) remain unchanged.

(4) An SB 618 Participant who is determined to no longer be eligible for the SB 618 Program, may appeal the Advisory Group decision by utilizing the ~~inmate appeal process~~ administrative remedies procedures as provided in the California Code of Regulations, Title 15, Chapter 1, Subchapter 5.1, Article 8~~1~~, sections ~~3084~~ 3480 through ~~3085~~ 3487.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 667.5(c), 1203.8 and 5054, Penal Code.

3078.4. Alternative Custody Program Processing.

Subsections 3078.4(a) through (d) remain unchanged.

(e) The inmate may ~~appeal~~ file a grievance regarding the decision through the procedures detailed in section ~~3084~~ 3480 et seq. or reapply for participation in the program 30 days after the notice of the denial.

Note: Authority cited: Sections 5058, 5058.3 and 1170.05, Penal Code. Reference: Sections 1170.05 and 5054, Penal Code.

Article 8. Appeals-Inmate Sexual Safety

Existing section 3084 is repealed.

~~3084. Definitions.~~

~~For the purpose of Article 8, the following definitions shall apply:~~

~~(a) Appellant means an inmate or parolee who has submitted an appeal.~~

~~(b) General allegations means allegations that lack specificity or factual evidence to support them.~~

~~(c) Material adverse effect means a harm or injury that is measurable or demonstrable, or the reasonable likelihood of such harm or injury. In either case, the harm or injury must be due to any policy, decision, action, condition, or omission by the department or its staff.~~

~~(d) Modification order means an order by the institution, parole region, or third level Appeals Chief directing a previous decision to be modified.~~

~~(e) Remedy means a process or means to address an issue or correct a wrong.~~

~~(f) Reviewer means the individual with signature authority for the approval or disapproval of an appeal response at any level.~~

~~(g) Staff misconduct means staff behavior that violates or is contrary to law, regulation, policy, procedure, or an ethical or professional standard.~~

~~(h) Supporting documents means documents that are needed to substantiate allegations made in the appeal including, but not limited to, classification chronos, property inventory sheets, property receipts, disciplinary reports with supplements, incident reports, notifications of disallowed mail, trust account statements, memoranda or letters, medical records and written requests for interviews, items or services. Supporting documents do not include documents that simply restate the matter under appeal, argue its merits, or introduce new issues not identified in the present appeal form.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.~~

New section 3084 is adopted.

3084. Inmate-on-Inmate Sexual Violence, Staff-on-Inmate Sexual Misconduct, and Sexual Harassment of Inmates.

(a) A grievance in whole or part containing allegations of inmate-on-inmate sexual violence, staff-on-inmate sexual misconduct, or sexual harassment of inmates shall be immediately reviewed by the Hiring Authority or designee. The inmate shall not be required to use any informal grievance process, or otherwise attempt to resolve with staff, an alleged incident of inmate-on-inmate sexual violence or staff-on-inmate sexual misconduct. When the grievance alleges or indicates that the inmate may be in substantial risk of imminent inmate-on-inmate sexual violence, or imminent staff-on-inmate sexual misconduct, a risk assessment shall be immediately undertaken.

(b) An inmate shall not submit a grievance on behalf of another person unless the grievance contains an allegation of inmate-on-inmate sexual violence, staff-on-inmate sexual misconduct, or sexual harassment of any inmate.

(c) Staff-on-Inmate Sexual Misconduct.

(1) There shall be no time limit for allegations of staff-on-inmate sexual misconduct.

(2) A risk assessment determination of all staff-on-inmate sexual misconduct related grievances shall be immediately completed by the Hiring Authority to determine if the inmate is in substantial risk of imminent staff-on-inmate sexual misconduct. If the assessment results in a determination that the inmate is in substantial risk of imminent staff-on-inmate sexual misconduct, the Hiring Authority shall take immediate corrective action.

(3) The Hiring Authority shall provide an initial response to the inmate within 48 hours.

(4) An initial risk assessment shall be documented within 48 hours and the completed risk assessment determination by the Hiring Authority shall be documented within 5 calendar days describing whether the inmate was determined to be in substantial risk of imminent staff-on-inmate sexual misconduct and the action taken in response to the grievance.

(5) The inmate may consider an absence of a timely response at any level a denial at that level.

(d) Inmate-on-Inmate Sexual Violence.

- (1) There shall be no time limit for allegations of inmate-on-inmate sexual violence.
- (2) A risk assessment determination of all inmate-on-inmate sexual violence related grievances shall be immediately completed by the Hiring Authority to determine if the inmate is in substantial risk of imminent inmate-on-inmate sexual violence. If the assessment results in a determination that the inmate is in substantial risk of imminent inmate-on-inmate sexual violence, the Hiring Authority shall take immediate corrective action.
- (3) The Hiring Authority shall provide an initial response to the inmate within 48 hours.
- (4) An initial risk assessment shall be documented within 48 hours and the completed risk assessment determination by the Hiring Authority shall be documented within 5 calendar days describing whether the inmate was determined to be in substantial risk of imminent inmate-on-inmate sexual violence and the action taken in response to the grievance.
- (5) The inmate may consider an absence of a timely response at any level a denial at that level.

Note: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code; 28 CFR sections 35.107 and 115.52.

Section 3084.1 is repealed.

3084.1. Right to Appeal.

~~The appeal process is intended to provide a remedy for inmates and parolees with identified grievances and to provide an administrative mechanism for review of departmental policies, decisions, actions, conditions, or omissions that have a material adverse effect on the welfare of inmates and parolees. All appeals shall be processed according to the provisions of Article 8, Appeals, unless exempted from its provisions pursuant to court order or superseded by law or other regulations.~~

~~(a) Any inmate or parolee under the department's jurisdiction may appeal any policy, decision, action, condition, or omission by the department or its staff that the inmate or parolee can demonstrate as having a material adverse effect upon his or her health, safety, or welfare.~~

~~(b) Unless otherwise stated in these regulations, all appeals are subject to a third level of review, as described in section 3084.7, before administrative remedies are deemed exhausted. All lower level reviews are subject to modification at the third level of review. Administrative remedies shall not be considered exhausted relative to any new issue, information, or person later named by the appellant that was not included in the originally submitted CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal, which is incorporated by reference, and addressed through all required levels of administrative review up to and including the third level. In addition, a cancellation or rejection decision does not exhaust administrative remedies.~~

~~(c) Department staff shall ensure that inmates and parolees, including those who have difficulties communicating, are provided equal access to the appeals process and the timely assistance necessary to participate throughout the appeal process.~~

~~(d) No reprisal shall be taken against an inmate or parolee for filing an appeal. This shall not prohibit appeal restrictions against an inmate or parolee abusing the appeal process as defined in section 3084.4, nor shall it prohibit the pursuit of disciplinary sanctions for violation of department rules.~~

~~(e) The department shall ensure that its departmental appeal forms for appeal of decisions, actions, or policies within its jurisdiction are readily available to all inmates and parolees.~~

~~(f) An inmate or parolee has the right to file one appeal every 14 calendar days unless the appeal is accepted as an emergency appeal. The 14 calendar day period shall commence on the day following the appellant's last accepted appeal.~~

~~(g) An appellant shall adhere to appeal filing time constraints as defined in section 3084.8. Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. Section 1997 et seq., Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; and Wolff v. McDonnell (1974) 418 U.S. 539, 558-560.~~

Section 3084.2 is repealed.

3084.2. Appeal Preparation and Submittal.

~~(a) The appellant shall use a CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal, to describe the specific issue under appeal and the relief requested. A CDCR Form 602-A (08/09), Inmate/Parolee Appeal Form Attachment, which is incorporated by reference, shall be used if additional space is needed to describe the issue under appeal or the relief requested.~~

~~(1) The inmate or parolee is limited to one issue or related set of issues per each Inmate/Parolee Appeal form submitted. The inmate or parolee shall not combine unrelated issues on a single appeal form for the purpose of circumventing appeal filing requirements. Filings of appeals combining unrelated issues shall be rejected and returned to the appellant by the appeals coordinator with an explanation that the issues are deemed unrelated and may only be submitted separately.~~

~~(2) The inmate or parolee is limited to the space provided on the Inmate/Parolee Appeal form and one Inmate/Parolee Appeal Form Attachment to describe the specific issue and action requested. The appeal content must be printed legibly in ink or typed on the lines provided on the appeal forms in no smaller than a 12-point font. There shall be only one line of text on each line provided on these forms.~~

~~(3) The inmate or parolee shall list all staff member(s) involved and shall describe their involvement in the issue. To assist in the identification of staff members, the inmate or parolee shall include the staff member's last name, first initial, title or position, if known, and the dates of the staff member's involvement in the issue under appeal. If the inmate or parolee does not have the requested identifying information about the staff member(s), he or she shall provide any other available information that would assist the appeals coordinator in making a reasonable attempt to identify the staff member(s) in question.~~

~~(4) The inmate or parolee shall state all facts known and available to him/her regarding the issue being appealed at the time of submitting the Inmate/Parolee Appeal form, and if needed, the Inmate/Parolee Appeal Form Attachment.~~

~~(b) The inmate or parolee shall submit the signed original appeal forms and supporting documents. If originals are not available, copies may be submitted with an explanation why the originals are not available. The appeals coordinator shall have the discretion to request that any submitted copy is verified by staff.~~

~~(1) Only supporting documents, as defined in subsection 3084(h), necessary to clarify the appeal shall be attached to the appeal. Attachments shall not raise new issues, but shall only serve to clarify the present appeal issue and action(s) requested as stated in Parts A and B of the Inmate/Parolee Appeal form. New issues raised in the supporting~~

~~documents shall not be addressed and any decision rendered will pertain only to the present appeal issue and requested action(s).~~

~~(2) Inmates or parolees shall submit their appeal documents in a single mailing and shall not divide their appeal documents into separate mailings.~~

~~(3) Inmates or parolees shall not deface or attach dividers or tabs to their appeal forms.~~

~~(4) Inmates or parolees shall not contaminate or attach physical/organic objects or samples to their appeal documents. Examples of these objects or samples include, but are not limited to, food, clothing, razor blades, books, magazines, tape, string, hair, blood, and/or bodily fluids/excrement.~~

~~(c) First and second level appeals as described in section 3084.7 shall be submitted to the appeals coordinator at the institution or parole region for processing.~~

~~(d) If dissatisfied with the second level response, the appellant may submit the appeal for a third level review, as described in section 3084.7, provided that the time limits pursuant to section 3084.8 are met. The appellant shall mail the appeal and supporting documents to the third level Appeals Chief via the United States mail service utilizing his or her own funds, unless the appellant is indigent in which case the mailing of appeals to the third level of review shall be processed in accordance with indigent mail provisions pursuant to section 3138.~~

~~(e) If the appeal has been accepted and processed as an emergency appeal and the appellant wishes a third level review, the appellant must forward the appeal to the appeals coordinator who shall electronically transmit it to the third level Appeals Chief. The third level review shall be completed within five working days.~~

~~(f) An inmate or parolee or other person may assist another inmate or parolee with preparation of an appeal unless the act of providing such assistance would create an unmanageable situation including but not limited to: acting contrary to the principles set forth in sections 3163 and 3270, allowing one offender to exercise unlawful influence/assume control over another, require an offender to access unauthorized areas or areas which would require an escort, or cause avoidance or non performance in assigned work and program activities. Inmates or parolees shall not give any form of compensation for receiving assistance or receive any form of compensation for assisting in the preparation of another's appeal. The giving or receiving of compensation is considered misconduct and is subject to disciplinary action.~~

~~(g) An inmate or parolee shall not submit an appeal on behalf of another person, unless the appeal contains an allegation of sexual violence, staff sexual misconduct, or sexual harassment.~~

~~(h) Group appeal. If a group of inmates/parolees intend to appeal a policy, decision, action, condition or omission affecting all members of the group, one CDCR Form 602, Inmate/Parolee Appeal, shall be submitted describing the appeal issue(s) and action requested, accompanied by a CDCR Form 602-G (08/09), Inmate/Parolee Group Appeal, which is incorporated by reference, with the legible name, departmental identification number, assignment, housing, and dated signature of the inmate or parolee who prepared the appeal. Each page of the CDCR Form 602-G must contain the appeal issue, action requested, and a statement that all the undersigned agree with the appeal issue/action requested.~~

~~(1) The legible names of the participating inmates/parolees, departmental identification numbers, assignments, housing, and dated signatures shall be included in the space provided on the Inmate/Parolee Group Appeal form and no other signature page shall be accepted by the appeals coordinator.~~

~~(2) The inmate or parolee submitting the appeal shall be responsible for sharing the appeal response with the inmates or parolees who signed the appeal attachment.~~

~~(3) If the inmate or parolee submitting the appeal is transferred, released, discharged, or requests to withdraw from the group appeal, responses shall be directed to the next inmate or parolee listed on the appeal attachment who remains at the facility/region, and who shall be responsible for sharing the response with the other inmates or parolees identified on the appeal.~~

~~(4) An appeal shall not be accepted or processed as a group appeal if the matter under appeal requires a response to a specific set of facts (such as disciplinary and staff complaint appeals) that are not the same for all participants in the appeal. In such case, the group appeal shall be screened out and returned to the inmate or parolee submitting the appeal with directions to advise all those who signed the appeal attachment to submit individual appeals on their separate issues.~~

~~(5) Every inmate or parolee who signs a group appeal is ineligible to submit a separate appeal on the same issue.~~

~~(6) A group appeal counts toward each appellant's allowable number of appeals filed in a 14 calendar day period.~~

~~(i) Multiple appeals of the same issue. When multiple appeals are received from more than one inmate or parolee on an identical issue, each such appeal shall be individually processed. However, if other issues in addition or extraneous to the multiple appeal issue are contained in the submitted appeal, this particular complaint shall not be processed as a multiple appeal, but will be subject to processing as a separate, individual appeal.~~

~~(1) The original inmate or parolee, and as needed for clarification of issues, one or more of the other inmates or parolees, shall be interviewed.~~

~~(2) The appellant shall be provided with an appeal response. A statement shall be included in the response indicating that the appeal has been designated as one of multiple identical appeals for processing purposes and the same response is being distributed to each appellant.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Sections 832.5(a) and 5054, Penal Code; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. Section 1997 et seq., Public Law 96-247, 94 Stat. 349; and 28 CFR Sections 35.107 and 115.52.~~

Section 3084.3 is repealed.

3084.3. Supporting Documents.

~~(a) An inmate or parolee shall obtain and attach all supporting documents, as described in section 3084(h), necessary for the clarification and/or resolution of his or her appeal issue prior to submitting the appeal to the appeals coordinator.~~

~~(b) The inmate or parolee shall not delay submitting an appeal within time limits established in section 3084.8 if unable to obtain supporting documents, but shall submit the appeal with all available supporting documents and in Part B of their CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal, provide an explanation why any remaining supporting documents are not available. Time limits for filing an appeal are not stayed by failure to obtain supporting documentation and commence as set forth in subsection 3084.8(b).~~

~~(c) Failure to attach all necessary supporting documents may result in the appeal being rejected as specified in subsection 3084.6(b)(7). The appeals coordinator shall inform the inmate or parolee that the appeal is rejected because necessary supporting documents~~

are missing. The appellant shall be allowed an additional 30 calendar days to secure any missing supporting documents and resubmit the appeal.

~~(d) The appeals coordinator may grant additional time extensions beyond the initial 30 calendar day extension if the inmate or parolee submits a reasonable explanation of why the supporting documents still are not available.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Section 3084.4 is repealed.

3084.4. Appeal System Abuse.

~~(a) The following are deemed misuse or abuse of the appeals process and may lead to appeal restriction as described in subsection 3084.4(g).~~

~~(1) The submittal of more than one appeal for initial review within a 14 calendar day period is considered excessive, unless the inmate or parolee is submitting an emergency appeal.~~

~~(2) The repeated filing of appeals that have been cancelled pursuant to subsection 3084.6(c).~~

~~(3) The appeal submission contains information the appellant knows to be false or consists of a deliberate attempt at distorting the facts.~~

~~(4) The appeal contains threatening, grossly derogatory, slanderous or obscene statements and/or organic contamination is included in or makes up any part of the appeal package.~~

~~(5) The description of the problem and/or requested action deliberately exceeds the space provided on the 602 forms or the appeal is intentionally filed contrary to instructions.~~

~~(b) When an inmate or parolee submits appeals as described above in subsections 3084.4(a)(1)-(a)(5):~~

~~(1) The first appeal received shall be screened for routine processing.~~

~~(2) All subsequent non-emergency appeals submitted by that individual shall be screened and the appeals coordinator shall begin documenting any abuse as evidenced by the screening results.~~

~~(c) If an inmate or parolee persists in submitting excessive, demonstrably false, noncompliant or abusive appeals, as described in subsection 3084.4(a), he or she shall receive a warning letter from the appeals coordinator that will document the history and nature of appeal system abuse.~~

~~(d) If the abuse of process continues after the issuance of a warning letter, the appeals coordinator shall meet with the inmate or parolee in a timely manner before imposition of any restriction to provide instruction for the appropriate use of the appeals process and to rule out any unintended basis for non-compliance. If a face to face meeting is not possible, an agent acting on behalf of the appeals coordinator shall conduct the meeting.~~

~~(e) Excessive, demonstrably false, noncompliant or abusive appeals, as described in subsection 3084.4(a), submitted by an inmate or parolee after the issuance of a warning letter, pursuant to subsection 3084.4(c) above, shall be screened by the appeals coordinator to ensure they do not contain qualifying emergency issues.~~

~~(1) If the appeal contains emergency issues, as described in subsection 3084.9(a)(1), it shall be processed as an emergency appeal.~~

~~(2) If no such issue is determined to be present, the appeal shall be retained by the appeals coordinator pending placement of the appellant on appeal restriction by the third level Appeals Chief. The appellant shall be informed in writing why the appeal constitutes abuse of the appeal process and informed that appeal processing has been suspended pending determination of appeal restriction status.~~

~~(f) If the appeal abuse continues after the issuance of a warning letter and a face-to-face meeting, the request for placement on restriction shall be referred to the third level Appeals Chief for approval.~~

~~(g) Upon confirmation of continued abuse and verification that a face-to-face interview and warning letter have occurred, the third level Appeals Chief shall have the discretion to authorize preparation of a notice by the Appeals Coordinator restricting the inmate or parolee to one non-emergency appeal every 30 calendar days for a period of one year. Any subsequent violation of the appeal restriction shall result in an extension of the restriction for an additional one-year period upon approval by the third level Appeals Chief.~~

~~(h) If the third level Appeals Chief makes a decision not to place the inmate or parolee on appeal restriction, any appeal submitted by the inmate or parolee and retained pursuant to subsection 3084.4(e)(2) shall be returned to the inmate or parolee who may then resubmit a returned appeal if he or she desires to do so. Resubmitted appeals are not exempt from the standard submittal requirements set forth in this Article, except that the appellant's original submittal date of the appeal may serve to satisfy filing time requirements.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Sections 148.6(a), 832.5(c) and 5054, Penal Code.~~

Section 3084.5 is repealed.

3084.5. Screening and Managing Appeals.

~~(a) Each institution head and parole region administrator shall designate an appeals coordinator at a staff position level no less than a Correctional Counselor II or Parole Agent II.~~

~~(b) The appeals coordinator or a delegated staff member under the direct oversight of the coordinator shall screen all appeals prior to acceptance and assignment for review.~~

~~(1) When an appeal indicates the inmate or parolee has difficulty describing the problem in writing or has a primary language other than English, the appeals coordinator shall ensure that the inmate or parolee receives assistance in completing and/or clarifying the appeal.~~

~~(2) When an appeal is received as an emergency appeal that does not meet the criteria for an emergency appeal as defined in subsection 3084.9(a), the appellant shall be notified that the appeal does not meet the criteria for processing as an emergency appeal and has been either accepted for regular processing or is rejected for the specific reason(s) cited.~~

~~(3) When an appeal is not accepted, the inmate or parolee shall be notified of the specific reason(s) for the rejection or cancellation of the appeal and of the correction(s) needed for the rejected appeal to be accepted.~~

~~(4) When an appeal is received that describes staff behavior or activity in violation of a law, regulation, policy, or procedure or appears contrary to an ethical or professional standard that could be considered misconduct as defined in subsection 3084(g), whether such misconduct is specifically alleged or not, the matter shall be referred pursuant to subsection 3084.9(i)(1) and (i)(3), to determine whether it shall be:~~

~~(A) Processed as a routine appeal but not as a staff complaint.~~

~~(B) Processed as a staff complaint appeal inquiry.~~

~~(C) Referred to Internal Affairs for an investigation/inquiry.~~

~~(5) If an appeal classified as a staff complaint includes other non-related issue(s), the provisions of 3084.9(i)(2) shall apply.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Sections 832.5, 832.7, 832.8, 5054 and 5058.4(a), Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. Section 1997 et seq., Public Law 96-247, 94 Stat. 349; and Section 35.107, Title 28, Code of Federal Regulations.~~

Section 3084.6 is repealed.

Section 3084.6. Rejection, Cancellation, and Withdrawal Criteria.

~~(a) Appeals may be rejected pursuant to subsection 3084.6(b), or cancelled pursuant to subsection 3084.6(c), as determined by the appeals coordinator.~~

~~(1) Unless the appeal is cancelled, the appeals coordinator shall provide clear and sufficient instructions regarding further actions the inmate or parolee must take to qualify the appeal for processing.~~

~~(2) An appeal that is rejected pursuant to subsection 3084.6(b) may later be accepted if the reason noted for the rejection is corrected and the appeal is returned by the inmate or parolee to the appeals coordinator within 30 calendar days of rejection.~~

~~(3) At the discretion of the appeals coordinator or third level Appeals Chief, a cancelled appeal may later be accepted if a determination is made that cancellation was made in error or new information is received which makes the appeal eligible for further review.~~

~~(4) Under exceptional circumstances any appeal may be accepted if the appeals coordinator or third level Appeals Chief conclude that the appeal should be subject to further review. Such a conclusion shall be reached on the basis of compelling evidence or receipt of new information such as documentation from health care staff that the inmate or parolee was medically or mentally incapacitated and unable to file.~~

~~(5) Erroneous acceptance of an appeal at a lower level does not preclude the next level of review from taking appropriate action, including rejection or cancellation of the appeal.~~

~~(b) An appeal may be rejected for any of the following reasons, which include, but are not limited to:~~

~~(1) The appeal concerns an anticipated action or decision.~~

~~(2) The appellant has failed to demonstrate a material adverse effect on his or her welfare as defined in subsection 3084(c).~~

~~(3) The inmate or parolee has exceeded the allowable number of appeals filed in a 14 calendar day period pursuant to the provisions of subsection 3084.1(f).~~

~~(4) The appeal contains threatening, obscene, demeaning, or abusive language.~~

~~(5) The inmate or parolee has attached more than one CDCR Form 602-A (08/09), Inmate/Parolee Appeal Form Attachment.~~

~~(6) The appeal makes a general allegation, but fails to state facts or specify an act or decision consistent with the allegation.~~

~~(7) The appeal is missing necessary supporting documents as established in section 3084.3.~~

~~(8) The appeal involves multiple issues that do not derive from a single event, or are not directly related and cannot be reasonably addressed in a single response due to this fact.~~

~~(9) The appeal issue is obscured by pointless verbiage or voluminous unrelated documentation such that the reviewer cannot be reasonably expected to identify the issue under appeal. In such case, the appeal shall be rejected unless the appellant is identified as requiring assistance in filing the appeal as described in subsection 3084.1(c).~~

~~(10) The inmate or parolee has not submitted his/her appeal printed legibly in ink or typed on the lines provided on the appeal forms in no smaller than a 12-point font or failed to submit an original.~~

~~(11) The appeal documentation is defaced or contaminated with physical/organic objects or samples as described in subsection 3084.2(b)(4). Appeals submitted with hazardous or toxic material that present a threat to the safety and security of staff, inmates, or the institution may subject the appellant to disciplinary action and/or criminal charges commensurate with the specific act.~~

~~(12) The appellant has attached dividers or tabs to the appeal forms and/or supporting documents.~~

~~(13) The appeal is incomplete; for example, the inmate or parolee has not provided a signature and/or date on the appeal forms in the designated signature/date blocks provided.~~

~~(14) The inmate or parolee has not submitted his/her appeal on the departmentally approved appeal forms.~~

~~(15) The inmate or parolee has submitted the appeal for processing at an inappropriate level bypassing required lower level(s) of review, e.g., submitting an appeal at the third level prior to lower level review.~~

~~(16) The appeal issue or complaint emphasis has been changed at some point in the process to the extent that the issue is entirely new, and the required lower levels of review and assessment have thereby been circumvented.~~

~~(c) An appeal may be cancelled for any of the following reasons, which include, but are not limited to:~~

~~(1) The action or decision being appealed is not within the jurisdiction of the department.~~

~~(2) The appeal duplicates an inmate or parolee's previous appeal upon which a decision has been rendered or is pending.~~

~~(3) The inmate or parolee continues to submit a rejected appeal while disregarding appeal staff's previous instructions to correct the appeal including failure to submit necessary supporting documents, unless the inmate or parolee provides in Part B of the CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal, a reasonable explanation of why the correction was not made or documents are not available.~~

~~(4) Time limits for submitting the appeal are exceeded even though the inmate or parolee had the opportunity to submit within the prescribed time constraints. In determining whether the time limit has been exceeded, the appeals coordinator shall consider whether the issue being appealed occurred on a specific date or is ongoing. If the issue is ongoing, which may include but is not limited to, continuing lockdowns, retention in segregated housing, or an ongoing program closure, the inmate or parolee may appeal any time during the duration of the event; however, the inmate or parolee is precluded from filing another appeal on the same issue unless a change in circumstances creates a new issue.~~

~~(5) The appeal is submitted on behalf of another person, unless it contains allegations of sexual violence, staff sexual misconduct, or sexual harassment of another inmate.~~

~~(6) The issue is subject to a department director level review independent of the appeal process such as a Departmental Review Board decision, which is not appealable and concludes the appellant's departmental administrative remedy pursuant to the provisions of section 3376.1.~~

~~(7) The appellant is deceased before the time limits for responding to an appeal have expired and the appeal is not a group appeal.~~

~~(8) The appellant refuses to be interviewed or to cooperate with the reviewer.~~

~~(A) The appellant's refusal to be interviewed or to cooperate with the reviewer shall be clearly articulated in the cancellation notice.~~

~~(B) If the appellant provides sufficient evidence to establish that the interviewer has a bias regarding the issue under appeal, the appeals coordinator shall assign another interviewer.~~

~~(9) The appeal is presented on behalf of a private citizen.~~

~~(10) Failure to correct and return a rejected appeal within 30 calendar days of the rejection.~~

~~(11) The issue under appeal has been resolved at a previous level.~~

~~(d) Group appeals shall not be cancelled at the request of the submitting individual unless all of the inmate signatories are released, transferred, or agree to withdraw the appeal.~~

~~(e) Once cancelled, an appeal shall not be accepted except pursuant to subsection 3084.6(a)(3); however, the application of the rules provided in subsection 3084.6(c) to the cancelled appeal may be separately appealed. If an appeal is cancelled at the third level of review, any appeal of the third level cancellation decision shall be made directly to the third level Appeals Chief.~~

~~(f) An appeal may be withdrawn by the appellant by requesting to have the processing stopped at any point up to receiving a signed response. The request for the withdrawal shall identify the reason for the withdrawal in section H of the CDCR Form 602, Inmate/Parolee Appeal and shall be signed and dated by the appellant. If there is an agreed upon relief noted in writing at the time of a withdrawal and the relief is not provided when and as promised, then the failure to provide the agreed upon relief may be appealed within 30 calendar days of the failure to grant the promised relief. The withdrawal of an appeal does not preclude further administrative action by the department regarding the issue under appeal. A withdrawn staff complaint shall be returned to the hiring authority to review for possible further administrative action.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code; Sections 19570, 19575.5, 19583.5 and 19635, Government Code; and 28 CFR Section 115.52.~~

Section 3084.7 is repealed.

~~3084.7. Levels of Appeal Review and Disposition.~~

~~(a) All appeals shall be initially submitted and screened at the first level unless the first level is exempted. The appeals coordinator may bypass the first level for appeal of:~~

~~(1) A policy, procedure or regulation implemented by the department.~~

~~(2) A policy or procedure implemented by the institution head.~~

~~(3) An issue that cannot be resolved at the division head level such as Associate Warden, Associate Regional Parole Administrator, CALPIA manager or equivalent.~~

~~(4) Serious disciplinary infractions.~~

~~(b) The second level is for review of appeals denied or not otherwise resolved to the appellant's satisfaction at the first level, or for which the first level is otherwise waived by these regulations. The second level shall be completed prior to the appellant filing at the third level as described in subsection 3084.7(c).~~

~~(1) A second level of review shall constitute the department's final action on appeals of disciplinary actions classified as "administrative" as described in section 3314, or of minor disciplinary infractions documented on the Counseling Only Rules Violation Report, pursuant to section 3312(a)(2), and shall exhaust administrative remedy on these matters.~~

~~(2) Movies/videos that have been given a rating of other than "G", "PG", or "PG-13" by the Motion Picture Association of America are not approved for either general inmate viewing pursuant to section 3220.4 or for viewing within the classroom, and will not be accepted for appeal at any level. The first level shall be waived for appeals related to the selection or exclusion of a "G", "PG", or "PG-13" rated or non-rated movie/video for viewing and the second level response shall constitute the department's final response on appeals of this nature.~~

~~(c) The third level is for review of appeals not resolved at the second level, or:~~

~~(1) When the inmate or parolee appeals alleged third level staff misconduct or appeals a third level cancellation decision or action.~~

~~(2) In the event of involuntary psychiatric transfers as provided in subsection 3084.9(b).~~

~~(d) Level of staff member conducting review.~~

~~(1) Appeal responses shall not be reviewed and approved by a staff person who:~~

~~(A) Participated in the event or decision being appealed. This does not preclude the involvement of staff who may have participated in the event or decision being appealed, so long as their involvement with the appeal response is necessary in order to determine the facts or to provide administrative remedy, and the staff person is not the reviewing authority and/or their involvement in the process will not compromise the integrity or outcome of the process.~~

~~(B) Is of a lower administrative rank than any participating staff. This does not preclude the use of staff, at a lower level than the staff whose actions or decisions are being appealed, to research the appeal issue.~~

~~(C) Participated in the review of a lower level appeal refiled at a higher level.~~

~~(2) Second level review shall be conducted by the hiring authority or designee at a level no lower than Chief Deputy Warden, Deputy Regional Parole Administrator, or the equivalent.~~

~~(3) The third level review constitutes the decision of the Secretary of the California Department of Corrections and Rehabilitation on an appeal, and shall be conducted by a designated representative under the supervision of the third level Appeals Chief or equivalent. The third level of review exhausts administrative remedies; however, this does not preclude amending a finding previously made at the third level.~~

~~(e) At least one face to face interview shall be conducted with the appellant at the first level of review, or the second level if the first level of review is bypassed, unless:~~

~~(1) The appellant waives the interview by initialing the appropriate box on the CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal. An appellant's waiver of the interview shall not preclude staff from conducting an interview in the event of staff determination that an interview is necessary.~~

~~(2) The reviewer has decided to grant the appeal in its entirety.~~

~~(3) The appeal is a request for a Computation Review Hearing, in which case the initial interview shall occur at the second level of review.~~

~~(4) The appellant is not present at the institution or parole region where the appeal was filed.~~

~~(A) In such case, a telephone interview with the appellant shall meet the requirement of a personal interview. If the appeal concerns a disciplinary action, the telephone interview may be waived if the appeals coordinator determines an interview would not provide additional facts.~~

~~(B) The response must note that the interview was conducted by telephone, explain the extraordinary circumstances that required it, and state why a face to face interview was not possible under the circumstances.~~

~~(C) If the appellant is not available for a telephone interview, the reviewer may request that a suitable employee in the jurisdiction where the appellant is located complete the interview and provide a report.~~

~~(f) An interview may be conducted at any subsequent level of review when staff determine that the issue under appeal requires further clarification.~~

~~(g) When a group or multiple appeal is received, one or more of the participating inmates/parolees shall be interviewed to clarify the issue(s).~~

~~(h) At the first and second level of review, the original appeal, within the time limits provided in section 3084.8, shall be returned to the appellant with a written response to the appeal issue providing the reason(s) for each decision. Each response shall accurately describe the matter under appeal and fully address the relief requested. If the decision is a partial grant, the response shall clarify for each requested action whether it is granted, granted in part, or denied, and shall also state the action taken.~~

~~(i) Modification orders issued by the institution, parole region, or by the third level of review shall be completed within 60 calendar days of the appeal decision which determined the need for a modification order. Reasonable documented proof of completion of the modification order shall accompany the completed order, or a statement shall be added by the responder clarifying the action taken and why documentation is not available.~~

~~(1) If it is not possible to comply with the modification order within 60 calendar days, staff responsible for complying with the modification order shall advise the local appeals coordinator every 30 calendar days of the reason for the delay and provide a projected date of completion. If the modification order was imposed by the third level of review, the local appeals coordinator shall notify the third level Appeals Chief every 30 calendar days of the reason for the delay and provide a projected date of completion.~~

~~(2) When it is clear that the modification order cannot be completed in the allotted time, the appeals coordinator shall advise the appellant of the reason for the delay and the anticipated date of completion. This process shall occur every 30 calendar days until the modification order is completed. All time constraints for an appellant to submit an appeal to the next level are considered postponed up to 120 days until the completion of a previous level modification order. Thereafter, the appellant must submit his/her appeal to the next level within 30 calendar days of receiving the modification order response.~~

~~(3) If the modification order is not completed after 120 calendar days of the issuance, the appellant may submit the appeal to the next level for administrative review within 30 calendar days.~~

~~(4) If the appellant transfers prior to the completion of the modification order, the originally assigned institution or parole region shall retain responsibility for completion of the modification order as specified in subsection 3084.7(i), including cases where the receiving institution or parole region provides the actual relief.~~

~~(5) In cases where a modification order is issued on an emergency appeal, the order shall specify the timeframe for the completion of the action granted. The appeals coordinator, if granted at the second level of review, and the third level Appeals Chief or designee, if granted at the third level of review, shall notify the hiring authority by electronic transmission of the emergency timeframe for completion of the granted action.~~

~~(j) An Appeals Coordinator or member of the Office of Appeals may review audio, video, or both forms of recordings related to an inmate grievance or appeal.~~

~~Note: Authority cited: Sections 5058 and 10006(b), Penal Code. Reference: Sections 5054 and 10006(b), Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C.~~

Section 1997 *et seq.*, Public Law 96-247, 94 Stat. 349; and Section 35.107, Title 28, Code of Federal Regulations.

Section 3084.8 is repealed.

~~3084.8. Appeal Time Limits.~~

~~(a) Time limits for reviewing appeals shall commence upon the date of receipt of the appeal form by the appeals coordinator.~~

~~(b) Except as described in subsection 3084.8(b)(4), an inmate or parolee must submit the appeal within 30 calendar days of:~~

~~(1) The occurrence of the event or decision being appealed, or;~~

~~(2) Upon first having knowledge of the action or decision being appealed, or;~~

~~(3) Upon receiving an unsatisfactory departmental response to an appeal filed.~~

~~(4) There shall be no time limits for allegations of sexual violence or staff sexual misconduct.~~

~~(c) All appeals shall be responded to and returned to the inmate or parolee by staff within the following time limits, unless exempted pursuant to the provisions of subsections 3084.8(f) and (g):~~

~~(1) First level responses shall be completed within 30 working days from date of receipt by the appeals coordinator.~~

~~(2) Second level responses shall be completed within 30 working days from date of receipt by the appeals coordinator.~~

~~(3) Third level responses shall be completed within 60 working days from date of receipt by the third level Appeals Chief.~~

~~(d) Exception to the time limits provided in subsection 3084.8(c) is authorized only in the event of:~~

~~(1) Unavailability of the inmate or parolee, or staff, or witnesses.~~

~~(2) The complexity of the decision, action, or policy requiring additional research.~~

~~(3) Necessary involvement of other agencies or jurisdictions.~~

~~(4) State of emergency pursuant to subsection 3383(c) requiring the postponement of nonessential administrative decisions and actions, including normal time requirements for such decisions and actions.~~

~~(e) Except for the third level, if an exceptional delay prevents completion of the review within specified time limits, the appellant, within the time limits provided in subsection 3084.8(c), shall be provided an explanation of the reasons for the delay and the estimated completion date.~~

~~(f) An appeal accepted as an emergency appeal shall be processed within the time frames set forth in subsections 3084.9(a)(4) and (a)(5).~~

~~(g) An appeal of the involuntary psychiatric transfer of an inmate or parolee shall be made directly to the third level pursuant to subsection 3084.9(b), within 30 calendar days of receipt of the hearing decision on the need for involuntary transfer.~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. Section 1997 *et seq.*, Public Law 96-247, 94 Stat. 349; and 28 CFR Sections 35.107 and 115.52.~~

Section 3084.9 is repealed.

~~Section 3084.9. Exceptions to the Regular Appeal Process.~~

~~(a) Emergency appeals. Emergency appeals should not be used by inmates or parolees as a substitute for verbally or otherwise informing staff of an emergency situation requiring immediate response.~~

~~(1) When circumstances are such that the regular appeal time limits would subject the inmate or parolee to a substantial risk of personal injury or cause other serious and irreparable harm, the appeal shall be processed as an emergency appeal. Emergency circumstances include, but are not limited to:~~

~~(A) Threat of death or injury due to enemies or other placement concerns.~~

~~(B) Serious and imminent threat to health or safety.~~

~~(2) An emergency appeal shall be submitted directly to the appeals coordinator and shall include a clear description of the circumstances warranting emergency processing. A request for emergency processing of an appeal that clearly does not meet the criteria for emergency processing or is made for the purpose of circumventing normal procedures or obtaining an expedited response may be considered misuse or abuse of the appeals process.~~

~~(3) If the appeals coordinator determines emergency processing is unwarranted, the inmate or parolee shall be notified and the appeal shall be processed pursuant to subsection 3084.5(b)(2).~~

~~(4) If emergency processing is warranted, the first level shall be waived and the second level review shall be completed within five working days.~~

~~(5) Prison Rape Elimination Act (PREA) Sexual Violence (Inmate on Inmate) and Staff Sexual Misconduct Appeals.~~

~~A grievance in whole or part containing allegations of sexual violence or staff sexual misconduct shall be processed as an emergency appeal. The appeal shall be immediately reviewed by the Hiring Authority or designee and processed directly at the Second Level of Review. When the appeal alleges or indicates that the inmate may be in substantial risk of imminent sexual violence or imminent staff sexual misconduct, a risk assessment shall be undertaken.~~

~~(A) Staff Complaints: While the department maintains the right to defend against an inmate lawsuit on the grounds of the applicable statute of limitations, a time limit shall not be imposed upon when an appellant may file such a grievance. The time limits for processing an emergency Staff Complaint are as follows:~~

~~1. There shall be no time limit for allegations of staff sexual misconduct, but once received by the appeals coordinator, the appeal shall be screened in accordance with subsection 3084.5(b)(4).~~

~~2. A risk assessment determination of all staff sexual misconduct related appeals shall be immediately completed by the Hiring Authority to determine if the appellant is in substantial risk of imminent staff sexual misconduct. If the assessment results in a determination of the appellant being in substantial risk of imminent staff sexual misconduct, the Hiring Authority shall take immediate corrective action.~~

~~3. The appeals coordinator shall provide an initial response to the appellant within 48 hours that shall include whether or not the appeal is being processed as an emergency Staff Complaint.~~

~~4. An initial risk assessment shall be documented within 48 hours and the completed risk assessment determination by the Hiring Authority shall be documented within 5 calendar days describing whether the appellant was determined to be in substantial risk of imminent staff sexual misconduct and the action(s) taken in response to the appeal.~~

~~5. If the conditions of exceptional delay exist as described in subsection 3084.8(d), the time constraints of Second Level of Review or Third Level of Review may be extended in~~

~~increments of 30 days, but shall not exceed 160 days from the date the appeal was received by the appeals coordinator. Any extension shall require written notification to the appellant and shall include the estimated completion date. The time consumed by the appellant in preparing the appeal shall not count in the calculation of a timely response.~~

~~6. The appellant may consider an absence of a timely response at any level, including that of any properly noticed extension, a denial at that level.~~

~~7. The appellant is required to respond to the Second Level Review within 30 calendar days in accordance with subsection 3084.8(b)(3).~~

~~(B) PREA Allegations Against Another Offender: A time limit shall not be imposed upon when an appellant may file a grievance alleging inmate on inmate sexual violence. The time limits for processing an emergency sexual violence appeal are as follows:~~

~~1. Once received by the appeals coordinator, the appeal shall be screened in accordance with section 3084.8. When the appeal alleges or indicates that the inmate is at substantial risk of imminent sexual violence, a risk assessment shall be undertaken.~~

~~2. A risk assessment determination of all sexual violence related appeals shall be immediately completed by the Hiring Authority to determine if the appellant is in substantial risk of imminent sexual violence. If the assessment results in a determination of the appellant being in substantial risk of imminent sexual violence, the Hiring Authority shall take immediate corrective action.~~

~~3. The appeals coordinator shall provide an initial response to the appellant within 48 hours that shall include whether or not the appeal is being processed as an emergency PREA appeal.~~

~~4. An initial risk assessment shall be documented within 48 hours and the completed risk assessment determination by the Hiring Authority shall be documented within 5 calendar days describing whether the appellant was determined to be in substantial risk of imminent sexual violence and the action(s) taken in response to the appeal.~~

~~5. If the conditions of exceptional delay exist as described in subsection 3084.8(d), the time constraints of Second Level of Review or Third Level of Review may be extended in increments of 30 days, but shall not exceed 160 days from the date the appeal was received by the appeals coordinator. Any extension shall require written notification to the appellant and shall include the estimated completion date. The time consumed by the appellant in preparing the appeal shall not count in the calculation of a timely response.~~

~~6. The appellant may consider an absence of a timely response at any level, including that of any properly noticed extension, a denial at that level.~~

~~7. The appellant is required to respond to the Second Level Review within 30 calendar days in accordance with subsection 3084.8(b)(3).~~

~~(b) Involuntary psychiatric transfers. An inmate or parolee may appeal the written decision of an involuntary psychiatric transfer, pursuant to subsection 3379(d), directly to the third level. A copy of the hearing decision shall be attached to the CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal, but the absence of such documentation shall not be cause for rejection of the appeal.~~

~~(c) Joint Venture Program (JVP) employer related grievances.~~

~~(1) Any current or former Joint Venture inmate employee who believes he/she has a grievance regarding a wage and hour or retaliation claim against a JVP employer shall submit the written grievance to the JVP Chief.~~

~~(2) The JVP Chief shall attempt to resolve all complaints.~~

~~(3) Time frames for filing grievances will be governed by the Division of Labor Standards Enforcement's (DLSE) statutes of limitations, including but not limited to, Labor Code~~

~~section 98.7 and Code of Civil Procedure sections 337, 338, and 339, for the appropriate type of complaint.~~

~~(4) If the inmate is dissatisfied with the JVP Chief's decision, the inmate may file a complaint with the Labor Commissioner.~~

~~(d) Parole period and term computation appeals. Parole period and term computation appeals shall be reviewed at the first level by the department's records staff. The inmate or parolee must state in detail the alleged error or reason for disputing the calculation of his or her release date.~~

~~(1) Records staff shall research the relevant case factors and document the findings. If the appeal is denied, the denial shall be delivered by records staff or by the appropriate caseworker to the appellant who shall sign and date a CDC Form 1031 (8-88), Acknowledgment of Receipt.~~

~~(2) The inmate or parolee may request a Computation Review Hearing that constitutes the second level review. The inmate or parolee shall be notified at least 24 hours prior to the hearing via the CDC Form 1032 (12/86), Notice of Time, Date, and Place of Computation Review Hearing, but may sign a voluntary waiver of such notice.~~

~~(3) The inmate or parolee shall be provided a copy of the CDC Form 1033 (8-88), Computation Review Hearing Decision, at the conclusion of the hearing.~~

~~(e) California Prison Industry Authority (CALPIA) health and safety complaints.~~

~~(1) A health and safety complaint should not be used by inmates as a substitute for verbally or otherwise informing staff of an urgent health or safety situation requiring immediate response.~~

~~(2) Pursuant to Labor Code and Industrial Relations regulations, an inmate who believes a health or safety hazard exists in a CALPIA operation shall deposit a written complaint in a readily accessible complaint box or give the complaint to any CALPIA staff member who shall submit it to the CALPIA health and safety committee for review and response. The committee shall undertake all authorized levels of review and referral.~~

~~(f) Property appeals. All property loss or damage arising from the same event or action for a single appellant shall be included in one appeal.~~

~~(1) An inmate or parolee who is appealing missing/damaged property that he or she believes occurred as a result of an error made by the receiving entity or by the transportation unit during the transfer of his/her property shall submit the appeal to the appeals coordinator of the receiving institution/region.~~

~~(2) An inmate or parolee who is appealing missing/damaged property that he or she alleges occurred as a result of an error made by the sending entity during the transfer from one institution/region to another institution/region, shall submit the appeal to the appeals coordinator of the receiving institution/region who will forward it to the sending institution/region for processing.~~

~~(3) The appeals coordinator shall process the appeal for a first level response.~~

~~(A) An attempt shall be made by staff to assess the damaged property and/or conduct a thorough search to locate the missing property.~~

~~(B) An attempt shall be made by staff to research the appellant's claim utilizing departmental inmate property records.~~

~~(4) If an administrative decision is made that the department is responsible for loss or damage to the appellant's property pursuant to section 3193, an attempt by staff to use donated property to substitute for or replace lost property at no cost to the state, or any effort to repair damaged property at institution expense, will be made prior to awarding monetary compensation for the loss.~~

~~(5) An appellant's refusal to accept repair, replacement, or substitution of like items and value shall be cause to deny the appeal. When denying an appeal on this basis, the reviewer must state why the replacement offered to the appellant is considered an equivalent item and value.~~

~~(6) The provisions of subsection 3193(b) shall apply when monetary compensation is determined to be the appropriate remedy.~~

~~(7) Before payment of any granted claim, the inmate or parolee shall discharge the state from further liability for the claim if required pursuant to Government Code section 965.~~

~~(8) The document denying a property claim appeal shall inform the appellant of the right to submit a claim directly with the Victim Compensation and Government Claims Board and shall provide the mailing address for such filing.~~

~~(9) An inmate or parolee who intends to submit a claim with the Victim Compensation and Government Claims Board shall adhere to the rules and timeframes governing those claims, which may be more restrictive than those of the CDCR appeals process.~~

~~(g) Disciplinary Appeals:~~

~~(1) A disciplinary action cannot be appealed until the hearing process is completed, including any re-hearing.~~

~~(2) Inmates who wish to exhaust their administrative remedies for "serious" disciplinary issues pursuant to section 3315 must appeal through the third level of review.~~

~~(h) Transfer Appeals. A decision for transfer to another institution may be appealed by the affected inmate after the transfer endorsement by the classification staff representative.~~

~~(1) Filing of an appeal of a transfer decision shall not normally be cause to stay or delay a transfer except in extraordinary circumstances and at the discretion of the Warden or designee.~~

~~(2) Regular transfer appeals:~~

~~(A) The first level of appeal shall be waived.~~

~~(B) If the appeal is granted at second level, the appellant's case shall be presented to a second classification staff representative for reconsideration.~~

~~(C) If the second classification staff representative disagrees with institution's recommendation, the institution head may submit the case to the departmental review board for final decision.~~

~~(D) If the appeal is denied at second level or the institution head does not refer the case to the departmental review board, the appellant may appeal at the third level.~~

~~(3) Reception center transfer appeals:~~

~~(A) First level review shall be conducted by the reception center's correctional administrator.~~

~~(B) If the appeal is granted, the appellant may be retained at the reception center until the case is presented to a second classification staff representative only if the proposed transfer poses a threat to the health or safety of the appellant.~~

~~(C) If the second classification staff representative disagrees with the first level appeal decision, the appellant may resubmit the appeal for second level review.~~

~~(D) Second level review shall be conducted by the institution head, who may retain the appellant at the reception center as a second level review action and refer the appeal to the departmental review board for resolution. The board's decision shall constitute final review.~~

~~(i) Staff complaints. A staff complaint filed by an inmate or parolee shall be processed as an appeal pursuant to this Article, not as a citizen's complaint. However, any appeal~~

~~alleging misconduct by a departmental peace officer as defined in subsection 3291(b) shall be accompanied by the subsection 3391(d) Rights and Responsibility Statement.~~

~~(1) An inmate or parolee alleging staff misconduct by a departmental employee shall forward the appeal to the appeals coordinator. Only after the appeal has been reviewed and categorized as a staff complaint by the hiring authority or designee at a level not below Chief Deputy Warden, Deputy Regional Parole Administrator, or equivalent level shall it be processed as a staff complaint. If the hiring authority makes a determination that the complaint shall not be accepted as a staff complaint, it shall be processed as a routine appeal pursuant to subsection 3084.5(b)(4)(A).~~

~~(2) When an appeal is accepted alleging staff misconduct that also includes any other issue(s), the appeals coordinator at the time the appeal is accepted as a staff complaint shall notify the inmate or parolee that any other appeal issue(s) may only be appealed separately and therefore resubmission of those issues is required if the intention is to seek resolution of such matters. Upon receiving such a notice, the inmate or parolee has 30 calendar days to submit separate appeal(s) regarding the other issue(s).~~

~~(3) All appeals alleging staff misconduct will be presented by the appeals coordinator to the hiring authority or designee within five working days. The hiring authority will review the complaint and determine if:~~

~~(A) The allegation warrants a request for an Internal Affairs investigation as the alleged conduct would likely lead to adverse personnel action. The case will be referred for an Internal Affairs investigation as instructed by the hiring authority.~~

~~(B) The allegation does not warrant a request for an Internal Affairs investigation in which case a confidential inquiry shall be completed by the reviewer. An inquiry shall be conducted whenever the appeal is designated as a staff complaint but is not referred to the Office of Internal Affairs (OIA) or when the matter is declined by the OIA.~~

~~1. A confidential report shall summarize the review and include a determination of the findings concerning the allegation. This document shall not be provided to the appellant. It shall be kept in the appeal file in the Appeals Office and no other copies shall be kept or maintained except as herein described or as needed for Third Level review or litigation. This document is strictly confidential to all inmates and any staff except those involved in the inquiry process or litigation involving the department.~~

~~2. The accused staff may review the confidential report in the appeals office upon approval of the litigation coordinator, but if any information relating to other staff is contained in the confidential document, a copy shall be made and that information redacted prior to the review. Neither the original nor the copy shall leave the appeals office except as required for litigation and any redacted copy shall be placed with the original after review.~~

~~3. The assigned reviewer will interview the appellant and as many witnesses as necessary to reach a determination concerning the allegation. The subject(s) of the staff complaint may be interviewed by a person trained to conduct administrative interviews and will be given notice of the interview at least 24 hours prior to the interview. If the subject chooses to waive the 24-hour requirement, he/she must indicate this at the time they are given notice. If waived, the subject may be interviewed immediately.~~

~~4. A confidential inquiry shall review the information available to determine whether policy was violated.~~

~~(4) The institution's appeal response to a staff complaint shall inform the appellant of either:~~

~~(A) The referral for investigation and the status of the investigation. Additionally, the appellant shall be notified of the outcome at the conclusion of the investigation.~~

~~(B) The decision to conduct a confidential inquiry and whether the findings determined that the staff in question did or did not violate departmental policy with regard to each of the specific allegation(s) made.~~

~~(5) A staff complaint alleging excessive or inappropriate use of force shall be addressed pursuant to the procedures described in sections 3268 through 3268.2.~~

~~(6) An appeal alleging staff misconduct by an appeals coordinator shall be reviewed by the hiring authority for determination of processing.~~

~~(j) Appeal to the DRB of transfer decision to place an inmate in the RCGP.~~

~~(1) An inmate may appeal an ICC decision to the DRB when ICC determines placement in a RCGP facility is appropriate based on the inmate being found guilty of: three serious STG related; or five administrative STG related; or a total of five serious and administrative STG related rules violation reports while housed in the Security Housing Unit (SHU) Step Down Program (SDP).~~

~~(2) The appellant shall use a CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal, to describe the specific issue under appeal. A CDCR Form 602 A (08/09), Inmate/Parolee Appeal Form Attachment, shall be used if additional space is needed to describe the issue under appeal or the relief requested. Such appeals shall bypass the first and second levels of review.~~

~~(3) The appellant shall submit the appeal within 30 days of receiving the CDC Form 128-G, (Rev. 10/89) Classification Chrono, in which the ICC decision is documented.~~

~~(4) The appellant shall mail the appeal and supporting documents to the third level Appeals Chief via the United States mail service utilizing his or her own funds, unless the appellant is indigent in which case the mailing of appeals to the third level of review shall be processed in accordance with indigent mail provisions pursuant to section 3138.~~

~~(5) The Appeals Chief or designee shall log the appeal and forward to the Chief, Classification Services Unit (CSU) for response.~~

~~(6) The Chief, CSU shall review the materials provided and prepare the appeal for discussion with the DRB.~~

~~(7) The DRB will review the inmate's disciplinary history which caused placement in RCGP, pursuant to section 3378.9 and determine whether removal from the SHU SDP and transfer to the RCGP was appropriate. An appearance before the DRB by the inmate is not required for a determination on such an appeal.~~

~~(8) The decision of the DRB shall be documented on the CDCR Form 602 (Rev. 08/09), Inmate/Parolee Appeal and returned to the Appeals Chief where it will be logged and forwarded to the inmate.~~

~~Note: Authority cited: Section 5058, Penal Code; and Section 6304.3, Labor Code. Reference: Sections 148.6, 832.5, 832.7, 832.8, 5054 and 5058.4, Penal Code; Sections 935.6, 965, 3300 3313, 19570 19575.5, 19583.5 and 19635, Government Code; Sections 98.7 and 6304.3, Labor Code; Sections 337, 338 and 339, Code of Civil Procedure; Sections 344.40, 344.41, 344.42 and 344.43, Title 8, Industrial Relations, California Code of Regulations; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. Section 1997 et seq., Public Law 96-247, 94 Stat. 349; 28 CFR Sections 35.107 and 115.52; *Wolff v. McDonnell* (1974) 418 U.S. 539, 558-560; and *Vasquez v. State of California*, 105 Cal.App.4th 849 (2003) as implemented by the Stipulated Injunction and Order entered by the Superior Court of San Diego County in Case No.GIC-740832.~~

Section 3085 is repealed.

~~Section 3085. Americans With Disabilities Act.~~

~~Explanation: Departmental compliance with the Americans with Disabilities Act (ADA) is currently under the supervision of federal courts as specified in Court Ordered Remedial Plans articulated in the *Armstrong v. Schwarzenegger* (previously: *Armstrong v. Davis*) case. Accordingly, departmental ADA practices, including offender ADA appeal rights are currently carried out in accordance with an Armstrong Remedial Plan (ARP) established by the court of jurisdiction.~~

~~Note: *Armstrong v. Schwarzenegger* (2002) USDC ND (No. C-94-2307-CW); Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328.~~

Article 8.5 Written Request Process is repealed.

~~Article 8.5 Written Request Process~~

Section 3086 is repealed.

~~3086. Inmate/Parolee Request for Interview, Item or Service.~~

~~(a) Inmates and parolees may request interviews with staff and/or request items and services via a written request process. The objectives of timely resolution of routine matters through an effective and non-conflictive communication process shall be facilitated by the practices set forth in this article, which shall be henceforth applied uniformly toward that end. Department staff shall attempt to resolve inmate and parolee issues expeditiously.~~

~~(b) The written request process may be used when the inmate or parolee seeks a response to an issue or concern related to his or her confinement or parole.~~

~~(c) The department shall ensure that inmates and parolees will have access to the CDCR Form 22 (10/09), Inmate/Parolee Request for Interview, Item or Service, which is incorporated by reference. This form shall be made readily available in:~~

~~(1) All inmate housing units, general or segregated.~~

~~(2) All institutional libraries.~~

~~(3) Any facility under the department's jurisdiction, whether residential or medical, where inmates are required to remain more than 24 hours.~~

~~(4) All parole field offices.~~

~~(d) The Inmate/Parolee Request for Interview, Item or Service form will provide:~~

~~(1) A written method for an inmate or parolee to address issues and concerns with staff and/or to request items and services.~~

~~(2) A record of the date the form was first presented to staff, and the date of each staff response.~~

~~(e) When seeking response to a written request for an interview, item, or service, the inmate or parolee shall complete the Request for Interview, Item or Service form to describe his or her request. The inmate shall deliver or mail via institutional mail the completed form to any staff member who is able to respond to the issue. The parolee shall deliver or mail via the United States Postal Service the completed form to his or her parole agent, who shall respond to the issue or, as appropriate, route the form to another staff member who is able to respond to the issue.~~

~~(1) If the inmate or parolee mails the form, the receipted copy of their request may also be returned by staff via the mail.~~

~~(2) As the written request process does not stay the time constraints for filing an appeal, the inmate or parolee is not precluded from filing an appeal on the same issue prior to~~

receiving a response to their written request. However, the appeal may be rejected by the appeals coordinator or designee with instructions to complete the request form process before resubmitting the appeal.

~~(f) Upon receipt of an inmate or parolee completed Request for Interview, Item or Service form, the employee shall:~~

~~(1) Accept, date and sign the form.~~

~~(2) Provide to the inmate or parolee the bottom copy of the employee signed form, which shall serve as the inmate's or parolee's receipt to verify the date of submittal. The employee, at his or her discretion, can respond to the request at this time or wait until he or she has more time to respond within the constraints of this article.~~

~~(3) The receipt of an inmate or parolee completed form does not preclude a staff member from forwarding the document to a more appropriate responder; however, employees shall either deliver the form to the staff member or place it in institutional mail addressed to the intended staff member within 24 hours.~~

~~(4) Within three working days after receipt of the form, the responding employee shall:~~

~~(A) Note his or her decision or action on the form.~~

~~(B) Sign and date the form.~~

~~(C) Retain a copy for his or her records.~~

~~(D) Return the original and remaining copy of the form to the inmate or parolee.~~

~~(g) If the inmate or parolee is dissatisfied with or disagrees with the staff member's response, he or she may submit the Request for Interview, Item or Service form to the employee's supervisor for review, while retaining a copy for his or her records. Only in the absence of the staff member's supervisor may the inmate or parolee submit the form to another supervisor of the office or unit in question.~~

~~(h) Within seven calendar days of receipt of the Request for Interview, Item or Service form, the supervisor shall:~~

~~(1) Indicate a decision or action on the form.~~

~~(2) Sign and date the form.~~

~~(3) Ensure a copy is made and retained in the facility records for a period no less than prescribed for inmate correspondence in the approved departmental records retention schedule.~~

~~(4) Return the original to the inmate or parolee.~~

~~(i) An inmate or parolee's documented use of a Request for Interview, Item or Service form does not constitute exhaustion of administrative remedies as defined in subsection 3084.1(b).~~

~~Note: Authority cited: Section 5058, Penal Code. Reference: Sections 148.6, 832.5 and 5054, Penal Code; Section 19583.5, Government Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. Section 1997 et seq., Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; and Wolff v. McDonnell (1974) 418 U.S. 539, 558-560.~~

3134.1. Processing of Publications.

Subsections 3134.1(a) through 3134.1(c) remain unchanged.

(d) Notifications, to Publisher, to the Inmate, and to the Division of Adult Institutions (DAI) for Disapproval of Publication. When incoming books, magazines, or publications to an inmate are withheld or disallowed on a temporary basis by the institution pending approval

from DAI, a letter shall be sent by the institution to the publisher explaining why the item was denied. A book, magazine, or publication denied to an inmate(s) based on a violation of departmental regulation or policy, and that is not included on the current Centralized List of Disapproved Publications (Centralized List) pursuant to subsection 3134.1(e), shall only require one notification letter pursuant to institution to be sent to the publisher. At a minimum the letter must include the reason why the book, magazine, or publication was denied, the names and CDCR number for all inmates, the applicable CCR section that the publication violates, and a notice to the Publisher of their right to appeal pursuant to subsection 3137(c). The letter must be sent within 15 calendar days of the determination to disallow the book, magazine or publication, with a copy of the notification letter and supporting documents to be retained by the facility for a minimum of seven years. Concurrent to the letter to the publisher, when incoming or outgoing publications addressed to or being sent by an inmate are withheld or disallowed, the institution shall also notify the inmate addressee via CDCR Form 1819 (Rev. ~~04/16~~ 07/18), Notification of Disapproval-Mail/Packages/Publications, which is incorporated by reference. The CDCR Form 1819 shall include the reason, disposition, name of official disallowing the publication, and the name of the official to whom an appeal grievance can be directed.

The institution shall also concurrently notify DAI and request that DAI affirm or deny the withholding of the temporarily disallowed publication. DAI shall provide the decision within 30 calendar days of receiving the request. If DAI affirms the withholding of the publication, disallowance of the publication shall become permanent. If DAI denies the withholding of the publication, the institution shall deliver the publication to the inmate within 15 calendar days, upon receipt of DAI's decision.

For periodicals, as defined in subsection 3133(a)(3), the DAI may include a periodical on the Centralized List, in accordance with subsection 3134.1(e), provided that all issues of the publication for twelve consecutive months violate departmental regulation or policy. However, an institution may disallow individual issues of a periodical in accordance with this subsection. The disallowance of individual issues of a periodical shall become permanent, as to those issues only, if DAI affirms an institution's decision to temporarily withhold or disallow the individual issues. If the DAI denies the institution's decision to temporarily withhold individual issues of a periodical, the institutional shall deliver those issues to the inmate within 15 calendar days upon receipt of DAI's decision.

(e) Centralized List Of Disapproved Publications. The Division of Adult Institutions shall distribute to each institution a Centralized List of Disapproved Publications that are prohibited as contraband. Examples of publications that would be included on the Centralized List would include, but not be limited to, publications that contain, obscene material as described in subsection 3006(c)(15), sexually explicit images that depict frontal nudity as described in subsection 3006(c)(17)(A) warfare or weaponry, bomb making instructions, or STG written materials or photographs, as described in subsections 3378.2(b)(5)-(6). Publications that are enumerated on the Centralized List are not allowed in any institution. Local institutions may not add items to the Centralized List. When a publication is placed on the Centralized List, the Division of Adult Institutions shall send a letter to the publisher explaining why the publication was excluded. At a minimum, the letter must include the reason why the publication is excluded, the applicable CCR section that the publication violates, and a notice to the Publisher of its right to appeal complain per CCR subsection 3137(c). The letter must be sent within 15 calendar days of the

determination to disapprove the publication, with a copy of the notification letter and supporting documents to be retained by the facility for a minimum of seven years.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; *Procurier v. Martinez* (1974) 416 U.S. 396; and *Bell v. Wolfish* (1979) 441 U.S. 520.

3136. Disapproval of Inmate Mail.

(a) Disapproval of inmate mail that is in clear violation of CCR sections 3006 or 3135 shall be referred to staff not below the level of Captain for determination and appropriate action. Disapproval of inmate mail that is not in clear violation of CCR sections 3006 or 3135 shall be referred to the Warden, but not lower than the Chief Deputy Warden, for determination and appropriate action. When incoming or outgoing mail/packages/or publications addressed to or being sent by an inmate are withheld or disallowed, the inmate shall be informed via CDCR Form 1819 (Rev. 04/16 07/18), Notification of Disapproval-Mail/Packages/Publications, of the reason, disposition, name of official disallowing the mail/package/publication, and the name of the official to whom ~~an appeal~~ a grievance can be directed.

Subsection 3136(b) remains unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2600 and 2601(d), Penal Code.

3137. Appeals and Complaints Relating to Mail and Correspondences.

(a) Inmates, their correspondents, and publishers may ~~appeal~~ file a complaint regarding departmental rules, regulations, policies, approved facility procedures and their application relating to mail and correspondence.

(b) Inmates shall use the established ~~inmate appeal procedures as provided in section 3084~~ administrative remedies procedures as provided in section 3480, et seq. An inmate's submittal of ~~an appeal~~ a grievance within 30 calendar days of a notice that mail is being designated as undelivered will postpone any disposition of the mail until ~~an appeal decision is made at the third level of appeal review. If the inmate's appeal is denied at the third level of appeal review, the item of mail shall be disposed of as provided in subsection 3191(c).~~ the administrative remedies procedure is completed. The final decision rendered in the administrative remedies procedure shall determine disposition of mail.

(c) Persons other than inmates should address any ~~appeal~~ complaint relating to department policy and regulations to the Director of the Division of Adult Institutions (DAI). ~~Appeals~~ Complaints relating to a specific facility procedure or practice should be addressed in writing to the Warden, or Associate Director of the facility where the ~~appeal~~ issue arises. A written response shall be provided within 15 working days. ~~Appeals~~ Complaints that are not satisfactorily resolved at this level may be forwarded in writing to the Director of the DAI who shall provide a written response within 20 working days.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2600 and 2601, Penal Code; and In re Muszalski, 52 Cal. App. 3rd 500.

3141. Confidential Correspondence.

Subsections 3141(a) through 3141(b) remain unchanged.

(c) Persons and employees of persons with whom inmates may correspond confidentially and from whom inmates may receive confidential correspondence include:

Subsections 3141(c)(1) through 3141(c)(7) are unchanged.

(8) The Secretary, Undersecretary, Chief Deputy Secretaries, Executive Director, Assistant Secretaries, Division Directors, Deputy Directors, Associate Directors, the Chief, ~~Inmate~~ Office of Appeals, and the Lead Ombudsman's Office of the Department.

Subsections 3141(c)(9) through 3141(d) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2600 and 5054, Penal Code; and In re Jordan, 12 CA 3rd 575 (1974); and King v. Borg, USDC-ED Case No. CIV. S-87-0519 LKK/PAN/P.

3173.1. Visiting Restrictions with Minors.

Subsections 3173.1(a) through (f) remain unchanged.

(g) If an inmate disagrees with the decision of a classification committee, the inmate may file an ~~inmate written~~ grievance ~~via the CDCR Form 602 appeal process~~ as outlined in sections ~~3084 through 3084.9~~ 3480, et seq.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 1202.05, 5054 and 5054.2, Penal Code; Section 362.6, Welfare and Institutions Code; and People v. Glass (2004) 114 Cal. App. 4th 1032.

3179. Appeals-Complaints Relating to Visiting.

(a) ~~Inmates, and a~~ Approved inmate visitors, and visiting applicants may ~~appeal in writing~~ file a complaint with the institution head regarding department policies, staff decisions, and institution/ ~~or~~ facility procedures relating to visiting.

~~(1) Inmates shall use the established inmate appeal procedures as provided in section(s) 3084 through 3084.9.~~

~~(2) All appeals by approved inmate visitors and visiting applicants related to visiting shall be submitted to the institution head.~~

(b) Visitor ~~appeals-complaints~~ related to institution/ ~~or~~ facility procedures or staff decisions shall be addressed to the institution head. A written response shall be provided within 15 working days from receipt of the ~~appeal-complaint~~ appeal-complaint. If dissatisfied with the institution/ ~~or~~ facility response or action, the ~~appellant-complainant~~ appellant-complainant may refer the appeal, with a copy of the institution/ ~~or~~ facility decision, to the director or designee.

(c) ~~Appeals-Complaints~~ related to visiting shall be addressed to the director. A written response to ~~appeals-complaints~~ appeals-complaints addressed to the director shall be provided within 20 working days from the date of receipt.

(d) All subsequent decisions made as the result of an appeal and the reasons for the decisions shall be documented with a copy to the ~~appellant and/or inmate~~ appellant-complainant.

Visiting privileges shall be promptly approved or restored when an investigation concludes that no violation of rules, regulations, or procedures took place.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Section 3193. Liability.

Section 3193(a) remains unchanged.

(b) The department shall accept liability for the loss or destruction of inmate personal property when it is established that such loss or destruction results from employee action. Inmates shall utilize the ~~inmate appeal process~~ administrative remedies procedures if unable to resolve a personal property claim pursuant to section ~~3084.13481~~. Upon acceptance of liability, the department shall provide to the inmate similar items of equal or greater value when such items are available via donated property items ~~consistent with sections 3084.9 and 3191(c)~~. If donated items are not available, monetary compensation to the inmate for such loss shall not exceed either the dollar value assigned to the item or items at the time the inmate received authorization to possess the property; the cost of the item, verified by receipt; or the replacement value for the item or a similar item, as determined by the department. Staff recommendations to the Victim Compensation and Government Claims Board regarding monetary reimbursement will be made accordingly.

Subsection 3193(c) remains unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2085, 2600, 2601, 5062 and 5063, Penal Code.

Section 3220.4 Movies/ or Videos for Inmate Viewing.

(a) Only movies/ or videos approved by the institution head or his/her designee (reviewer) may be scheduled for viewing by inmates.

(b) Only those movies/ or videos which have been given a rating of "G," "PG," or "PG-13" by the Motion Picture Association of America (MPAA) or that have been placed on the department's discretionary showing list may be considered for viewing. Movies/ or videos which have been given a rating of other than "G," "PG," or "PG-13" by the Motion Picture Association of America shall not be approved for general inmate viewing. Regardless of their rating or listing, movies/ or videos which, in the opinion of the reviewer, glorify violence or sex, or are inflammatory to the climate of the facility shall not be shown.

(c) The selection or exclusion of a movie/ or video by a facility may be challenged by members of the public by writing to the director, ~~appealed/grieved~~ by inmates by following the ~~appeal process~~ administrative remedies procedures as stated in section ~~3084-3480~~ et seq., and grieved by staff by pursuing grievance procedures in accordance with their collective bargaining unit's contract ~~and/or~~ memorandum of understanding.

(d) At the discretion of the director, a movie/ or video review shall be done by the movie review committee, composed of staff named by the director. Movies may be submitted for consideration as follows:

(1) Movies/ or videos which have not been rated may be submitted to the director for the committee's consideration for general inmate viewing.

(2) Movies/ or videos which have an MPAA rating of other than “G,” “PG,” or “PG-13,” or have not been rated by the MPAA, may be submitted to the director by the facility reviewer or a contract vendor for the committee's consideration for specified limited inmate viewing purposes (e.g., education or contracted service vendor programs).

(3) Movies which are challenged by the public, appealed by inmates, and grieved by staff pursuant to subsection (c) of this section shall be reviewed by the committee at the director's discretion.

(e) The committee may determine a movie/ or video to be unacceptable for inmate viewing, acceptable for general inmate viewing, or acceptable for specified limited inmate viewing purposes.

(f) The committee will place movies/ or videos on a statewide “discretionary showing list” under the category of “approved for all purposes,” or under the category of “approved for specified limited inmate viewing purposes” (specifying the limited or special purpose for which the movie is being approved), or under the category of “unacceptable for inmate viewing.” A movie/ or video's placement on the list as approved will not require that it be shown by a facility.

Note: Authority cited: Sections 5058 and 10006(b), Penal Code. Reference: Sections 2601(c), 5054 and 10006(b), Penal Code.

3230. Establishment of Inmate Advisory Councils.

Subsections 3230(a) through 3230(c)(5) remain unchanged.

(d) Inmate advisory council representatives shall not, as a council representative, become involved with inmate grievances or appeals unless the matter affects the general inmate population and such involvement is authorized by the warden.

(1) No grievance or appeal concerning an employee shall be discussed by representatives with any employee below the level of correctional lieutenant.

Subsections 3230(d)(2) through 3230(i)(3) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3282. Use of Telephones by Inmates.

Subsections 3282(a) through 3282(f) remain unchanged.

(g) If staff designated by the institution head determine that an incoming call concerns an emergency or confidential matter, the caller's name and telephone number shall be obtained and the inmate promptly notified of the situation. The inmate shall be permitted to place an emergency or confidential call either collect or by providing for the toll to be deducted from the inmate's trust account. A confidential call shall not be made on an inmate telephone and shall not be monitored or recorded. If a call is determined to be an attorney/ and inmate confidential phone call, in order for the inmate to place or receive the call it must have already received approval/ or clearance in accordance with subsections (g)(1), (g)(2) and (g)(4).

Subsections 3282(g)(1) through 3282(g)(7) are unchanged.

~~(8) Inmates, approved attorneys/attorney representatives and pending approval confidential phone call applicants may appeal any departmental policies, staff decisions and institution/facility procedures related to confidential phone calls by following the appeals process as contained in Title 15, Section 3179. Appeals Related to Visiting. Title 15, Section 3179 applies in its entirety. Approved attorneys, approved attorney representatives, and confidential phone call applicants still pending approval may file a complaint regarding departmental policies, local procedures, or staff decisions related to confidential phone calls with the Warden or other official responsible for that housing unit.~~

Subsections 3282(h) through 3282(i) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Article 9.1 Research of Inmates/Parolees title is repealed.

~~**Article 9.1. Research of Inmates/Parolees**~~

Section 3369.5 is renumbered to section 3488 and is unchanged.

3378.4. Security Threat Group Behavior or Activity.

Introductory paragraph through Subsection 3378.4(b)(3)(A)3. remain unchanged.

~~4. The inmate may appeal the RCGP placement to the DRB, in accordance with section 3480 et. seq., without delay of transfer, ~~which would review the inmate's disciplinary history and determine whether removal from the program and transfer to the RCGP is appropriate in accordance with section 3084.9(j).~~ A hearing before the DRB is not required for a determination on such an appeal.~~

Subsections 3378.4(b)(3)(B) through 3378.4(d) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida*, et al. (N.D. Cal., No. C94-2847).

3383. State of Emergency.

Subsections 3383(a) through 3383(c)(3) remain unchanged.

~~(d) During a state of emergency the institution head or regional parole administrator/ or deputy director, DAPO, may authorize the postponement of nonessential administrative decisions, actions, and the normal time requirements for such decisions and actions as deemed necessary because of the emergency. This may include, but is not limited to, classification committee hearings, disciplinary proceedings, and the review and action on grievances, appeals, and complaints.~~

Subsection 3383(e) remains unchanged.

Note: Authority cited: Section 5058, Penal Code; and Section 11152, Government Code.
Reference: Section 5054, Penal Code.

Existing Section 3475 is renumbered to 3465 and is unchanged.

34765. Disabled Veteran Business Enterprise Goal.

*

Note: Authority cited: Section 5058, Penal Code; and Section 10115.3(b), Public Contract Code.
Reference: Sections 10115 and 10115.11, Public Contract Code.

Existing Section 3476 is renumbered to 3466 and is amended.

34766. Disabled Veteran Business Enterprise Bid and Sole Source Requirements.

(a) Within the time frames specified by the department's bid or sole source package, potential contractors shall be required to provide the department with either (1) or (2) below:

(1) Documentation, as required in the department's bid or sole source package, that they have met the disabled veteran business enterprise goal established in the respective package which shall include, but not be limited to, the names of their subcontractors; certification pursuant to section ~~3477~~3467; and dollar amounts of the subcontracts.

(2) Documentation, as required in the department's bid or sole source package pursuant to section ~~3478~~3468 of their good faith effort to meet the disabled veteran business enterprise goal established in the department's bid or sole source package.

Subsections 3466(b) through 3466(b)(2) are unchanged.

Note: Authority cited: Section 5058, Penal Code; and Section 10115.3(b), Public Contract Code. Reference: Sections 10115, 10115.2 and 10115.3, Public Contract Code.

Existing Sections 3477 through 3481 are renumbered to 3467 through 3472 respectively, and are unchanged.

34767. Certification of a Disabled Veteran Business Enterprise.

*

Note: Authority cited: Section 5058, Penal Code; and Section 10115.3(b), Public Contract Code. Reference: Sections 2050-2053 and 10115.1, Public Contract Code.

34768. Good Faith Effort Documentation.

*

Note: Authority cited: Section 5058, Penal Code; and Section 10115.3(b), Public Contract Code. Reference: Sections 10115.2-10115.4, Public Contract Code.

34769. Monitoring Disabled Veteran Business Enterprise Goals.

*

Note: Authority cited: Section 5058, Penal Code; and Section 10115.3(b), Public Contract Code. Reference: Sections 10115 and 10115.3, Public Contract Code.

348070. Joint Venture Program.

*

Note: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.2 and 5058, Penal Code.

3480-171. Joint Venture Policy Advisory Board.

*

Note: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.4 and 5054, Penal Code.

348172. Joint Venture Employer Selection Criteria.

*

Note: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.2, 2717.5 and 5054, Penal Code; and Section 5, Article XIV of the State Constitution.

Existing Section 3482 is renumbered to 3473 and is amended.

348273. Joint Venture Program Contracts.

Subsections 3473(a) through 3473(a)(3) remain unchanged.

(4) A requirement that inmate-employees shall be paid “comparable wages” as defined by PC section 2717.8. “Comparable wages” means that compensation of inmate-employees by the Joint Venture Employer shall be comparable to the wages paid by the Joint Venture Employer to non-inmate employees performing the same or similar work for that employer. If the Joint Venture Employer does not employ such non-inmate employees in the same or similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. These wages are subject to the deductions listed in Section ~~3485~~ 3476(h) and the mandatory savings listed in Section ~~3485~~ 3476(i).

Subsections 3473(a)(5) through 3473(a)(12)(H) remain unchanged.

(I) Compliance with the requirements of the department's approved inmate appeal procedures as required by Title 15, California Code of Regulations (CCR) Sections ~~3084~~ 3480 through ~~3084.9~~ 3487 or relevant Labor Code provisions.

Subsections 3473(a)(12)(J) through 3473(a)(12)(Q) remain unchanged.

(R) Sole responsibility of Joint Venture Employer to comply with all applicable federal, state, and local laws and regulations. (Nothing in this section should be construed to modify the responsibility of the State as defined in the California Code Regulations, Title 15, Division 3, Chapter 1, Subchapter 5, Article 9, Section ~~3484~~ 3475.)

Subsections 3473(a)(12)(S) through 3473(d) remain unchanged.

Note: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.5, 2717.6, 2717.8, and 5054, Penal Code; Section 5, Article XIV of the State

Constitution; and Vasquez v. State of California, 105 Cal.App.4th 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

Existing Sections 3483 and 3484 are renumbered to 3474 and 3475 respectively and are unchanged.

348374. Joint Venture Lease.

*

Note: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.2 and 5054, Penal Code.

348475. Monitoring Comparable Wages and Wage Plans.

*

Note: Authority cited: 2717.3 and 5058, Penal Code. Reference: Sections 2717.3, 2717.4, 2717.8 and 5054, Penal Code; and Vasquez v. State of California, 105 Cal.App.4th 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

Existing Section 3485 is renumbered to 3476 and is amended.

348576. Inmate Joint Venture Program Participation.

Subsections 3476(a) through 3476(c) remain unchanged.

(d) Inmate participation in the Joint Venture Program shall be voluntary as evidenced by their written consent on the department's CDCR Form 1872, (Rev. ~~9/05~~ 03/20) Inmate Participation Agreement - Joint Venture Program (JVP), which is hereby incorporated by reference. The Joint Venture Employer shall provide to all inmates hired written information on the conditions of their participation in the Joint Venture Program. Such information shall include, but not be limited to:

(1) Hours of work and the requirements that comparable wages be paid.

(2) Job description.

(3) Right to file complaints regarding claimed violations of their rights under PC section 2717.8, relevant provisions of the Labor Code, and applicable Industrial Welfare Commission Wage Orders.

(4) Inmates shall not be subject to retaliation, as specified in Title 15, CCR, Section ~~3084.4~~ 3481(d), by the department for their use of the inmate appeal process, to address Joint Venture Employer-related matters. Neither the Joint Venture Employer nor the department shall retaliate against inmates for exercising rights guaranteed under the State Labor Code or elsewhere in law to address Joint Venture Employer-related matters.

Subsections 3476(e) through 3476(h)(4) remains unchanged.

(i) In addition to (h) of ~~3485-3476~~, twenty percent of the inmate's net wages after taxes shall be retained for the inmate in mandatory savings under the control of the department.

Subsection 3476(i)(1) through 3476(i)(3) remain unchanged.

Note: Authority cited: Sections 2717.3 and 5058, Penal Code. Reference: Sections 2717.8 and 5054, Penal Code.

NOTE TO PUBLISHER – REMOVE PICTURE OF FORM 1872 (REV. 09/05)

Existing section 3486 is renumbered to 3477 and is amended.

348677. Compliance.

If a JVE is found to be in non-compliance with PC section 2717.8 or the provisions of sections ~~3482~~ 3473(a)(4) and ~~3482~~ 3473(a)(12)(K), the JVP administrator shall issue a written notice requiring the JVE, within 30 days, to comply with the JVP contract. After 30 days, if the JVE remains non-compliant with the contract, the administrator shall issue to the JVE a written 30-day cancellation notice indicating that the JVE is in material breach of contract. Any bonds held pursuant to ~~3483~~ 3474(a)(12)(J) shall be forfeited if the JVE is found to be non-compliant. At the close of the 30-day cancellation notice, if the JVE has not come into compliance with the contract, the JVE shall be terminated from the JVP.

Note: Authority cited: 2717.3 and 5058, Penal Code. Reference: Sections 2717.8 and 5054, Penal Code; and Vasquez v. State of California, 105 Cal.App.4th 849 (2003), Stipulated Injunction and Order, Superior Court of San Diego County, Case No. GIC-740832.

New Subchapter 5.1 and Article 1 are adopted.

Subchapter 5.1. Inmate and Parolee Programs

Article 1. Offender Grievances and Appeals

3480. Implementation Date and Definitions.

(a) The provisions of this Article shall apply to all inmate and parolee grievances received by the Department of Corrections and Rehabilitation on or after January 1, 2022.

(b) For purposes of this article, the following definitions shall apply:

(1) “Administrative remedy” means the non-judicial process provided by the department to address inmate and parolee complaints.

(2) “Appeal” means a written request from a claimant for review by the Office of Appeals of a decision issued by the Institutional or Regional Office of Grievances.

(3) “Appeal package” means a written appeal from a claimant and all of its supporting documents.

(4) “Centralized Screening Team” refers to the unit responsible for screening all claims to determine if the claim meets the definition of “staff misconduct” or “routine claim” as defined in this section.

(5) “Claim” means a single complaint arising from a unique set of facts or circumstances.

(6) “Claimant” refers to an inmate or parolee under the custody or control of the department who files a grievance or appeal with the department.

(7) “Coordinator” means the official responsible for the administrative functions of the Office of Grievances or Office of Appeals, depending on their assignment.

(8) "Department" and "departmental staff" refers exclusively to the department of Corrections and Rehabilitation and to all employees, contractors, and volunteers associated with the department, unless expressly excluded elsewhere in this article.

(9) "Grievance" means a written request from a claimant for review by the Institutional or Regional Office of Grievances of one or more claims.

(10) "Grievance package" means a written grievance from a claimant and all of its supporting documents.

(11) "Reviewing Authority" means the official who oversees the Office of Grievances or Office of Appeals and who is responsible for the overall quality and timeliness of the written response to each claim raised in a grievance or appeal, respectively.

(12) "Routine claim" refers to any complaint submitted by an inmate or parolee that does not involve a claim of staff misconduct as defined in this section.

(13) "Staff misconduct" refers to behavior that resulted in a violation of law, regulation, policy, or procedure, or actions contrary to an ethical or professional standard.

Note: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

3481. Claimant's Ability to Grieve and to Appeal.

(a) A claimant has the ability to submit a written grievance to the department containing one or more claims, subject to the requirements in section 3482, to dispute a policy, decision, action, condition, or omission by the department or departmental staff. In response, a claimant shall receive a written decision, as described in section 3483, from an Institutional Office of Grievances in the Division of Adult Institutions or a Regional Office of Grievances in the Division of Adult Parole Operations, clearly explaining the reasoning for the decision in each claim. A claimant also has the ability to submit a written appeal concerning one or more claims, subject to the requirements in section 3484, to dispute the decision by the Institutional or Regional Office of Grievances. In response, a claimant shall receive a written decision as described in section 3485 from the Office of Appeals clearly explaining the reasoning for the decision in each claim.

(b) Reviewing Authorities.

(1) The Institutional Reviewing Authorities authorized to grant or deny routine claims in a grievance received by an inmate shall be of a rank no lower than a Chief Deputy Warden. The Director of the Division of Adult Institutions may also authorize an Associate Warden to serve as an Institutional Reviewing Authority. This authorization shall be in writing and shall indicate the start date and end date of the assignment.

(2) The Regional Reviewing Authorities authorized to grant or deny routine claims in a grievance submitted by a parolee shall be of a rank no lower than a Chief Deputy Parole Administrator. The Director of the Division of Adult Parole Operations may also authorize an Assistant Regional Administrator to serve as a Regional Reviewing Authority. This authorization shall be in writing and shall indicate the start date and end date of the assignment.

(3) The Secretary shall appoint the Reviewing Authority authorized to grant or deny each claim in an appeal submitted by an inmate or a parolee, but in no case shall that official

be of a rank lower than the Associate Director of the Office of Appeals. The Secretary may also authorize the Associate Warden of the Office of Appeals to serve as a Reviewing Authority. This authorization shall be in writing and shall indicate the start date and end date of the assignment

(c) A claimant may choose to informally resolve a claim; however, any attempt to informally resolve a claim does not extend the time for submitting a grievance or an appeal.

(d) Staff shall not retaliate against a claimant for seeking to informally resolve a claim or for submitting a grievance or appeal.

(e) A claimant does not have the right to grieve or appeal a policy, decision, action, condition, or omission that was not made by the department or departmental staff but instead was made by an entity or official outside of the department, including, but not limited to, a county jail, a private hospital, the Department of State Hospitals, or the Interstate Commission for Adult Offender Supervision; nor by an entity or official that is quasi-independent of the department, including, but not limited to, the Board of Parole Hearings, the Prison Industry Authority, or the Commission on Correctional Peace Officer Standards and Training. This article does not preclude a claimant from filing a complaint with the outside entity or official.

(f) CDCR Form 602-1 (Rev. 01/22), "Grievance," hereby incorporated by reference, shall be made available to inmates in all housing units and in all prison law libraries and to parolees at all parole offices statewide.

(g) When submitting a grievance or appeal, or for purposes of a related interview, if a claimant requests assistance based on a disability, lack of literacy, or need for translation services, or departmental staff detect the need for such assistance, then staff shall provide reasonable accommodations and utilize effective communication techniques as required by the Americans with Disabilities Act.

Note: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

3482. Preparation and Submittal of a Grievance.

(a) Where to submit a grievance.

(1) An inmate who wishes to submit a grievance shall do so in writing to the Institutional Office of Grievances at the prison where they are housed or to the Institutional Office of Grievances designated for the re-entry facility or fire camp where they are housed. Every Warden, in consultation with the Director of the Division of Adult Institutions, shall issue a separate local rule in compliance with subdivision (c) of section 5058 of the Penal Code which shall be made available in all the law libraries at that institution, identifying the address where grievances may be mailed, the availability of electronic kiosks or tablets for submitting grievances, the physical location in each housing unit of all lock-boxes where grievances may be submitted, and the specific departmental staff permitted to collect grievances from those lock-boxes. Grievances shall be collected from lock-boxes at least once per business day by departmental staff not regularly assigned to that housing unit. Additional processes and procedures regarding the preparation and

submittal of a grievance may be promulgated by the Division of Adult Institutions so long as they are consistent with this Article.

(2) A parolee who wishes to submit a grievance shall do so in writing to the Regional Office of Grievances in the parole region where they are supervised. Every Regional Parole Administrator, in consultation with the Director of the Division of Adult Parole Operations, shall issue a written advisement to a parolee within 15 calendar days of the parolee's release from prison identifying the address where grievances may be mailed, the availability of electronic kiosks or tablets for submitting grievances, and the physical location where grievances may be submitted. Additional processes and procedures regarding the preparation and submittal of a grievance may be promulgated by the Division of Adult Parole Operations so long as they are consistent with this Article.

(b) Time constraints.

(1) A claimant shall submit a claim within 60 calendar days of discovering an adverse policy, decision, action, condition, or omission by the department. Discovery occurs when a claimant knew or should have reasonably known of the adverse policy, decision, action, condition, or omission.

(2) The time limit for a parolee to submit a grievance shall not be extended while the parolee is on suspended status, meaning the parolee has absconded. The time constraint to submit a claim shall be extended for the period of time that a claimant is:

(A) in the custody of another authority for court proceedings;

(B) in the care of an outside hospital;

(C) temporarily housed in a medical or mental health crisis bed; or

(D) actively and directly engaged in fire suppression.

(3) Regardless of these time constraints, all allegations of staff misconduct shall be referred by the Centralized Screening Team to an appropriate authority within the department for the purpose of gathering facts needed to prove or disprove the allegation and respond to the claimant

(c) To submit a grievance, a claimant shall:

(1) type or print legibly on an official CDCR Form 602-1 or complete the form electronically, if available;

(2) describe all information known and available to the claimant regarding the claim, including key dates and times, names and titles of all involved staff members (or a description of those staff members), and names and titles of all witnesses, to the best of the claimant's knowledge;

(3) describe any attempt to resolve the claim informally and, if there was such an attempt, provide the details of that attempt, including key dates and times, names and titles of all involved staff members (or a description of those staff members), and the results of that attempt, to the best of the claimant's knowledge;

(4) include all supporting documents available to the claimant related to the claim or identify to the best of the claimant's ability all relevant records with sufficient specificity for those records to be located; and

(5) sign and date the CDCR Form 602-1.

(d) When completing a CDCR Form 602-1, a claimant shall not:

- (1) use threatening, obscene, demeaning, or abusive language, except when quoting persons involved in the claim;
- (2) include information or accusations known to the claimant to be false; or
- (3) contaminate the grievance package by including organic, toxic, or hazardous materials that may threaten staff safety or institutional security, in which case the grievance shall be safely discarded and the entire grievance disallowed. The claimant may re-submit the grievance concerning the same claim or claims so long as it is submitted within the time constraints set forth in subsection (b).
- (e) The entire grievance package shall be returned to the claimant with the acknowledgement of receipt described in subsection 3483(c).
- (f) The grievance package submitted by the claimant shall be stored electronically by the department.

Note: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

3483. Grievance Review.

- (a) The Reviewing Authority over each Office of Grievances shall designate at least one official to assess each written grievance within one business day of receipt to determine if it contains information concerning an imminent risk to personal safety, to institutional security, or of sexual abuse, including acts of sexual misconduct as defined by the federal Prison Rape Elimination Act and the California Sexual Abuse in Detention Elimination Act. In those instances, the official shall immediately take appropriate action as required by all applicable laws and regulations. The official shall ensure the claimant is notified of the department's course of action within five business days. In addition to the above requirements, if the grievance alleges that the claimant's Earliest Possible Release Date (EPRD) is erroneous and the claimant is scheduled to be released within 90 calendar days of the date the grievance was received by the Office of Grievances, then a comprehensive review of the EPRD shall be conducted and the results provided to the claimant within 30 calendar days of receipt of the grievance. Regardless of the above requirements, the Grievance Coordinator shall ensure that a written grievance decision is provided to the claimant as required in subsection (g).
- (b) The Grievance Coordinator shall ensure that the intake process is completed and each grievance is referred to the Centralized Screening Team within three business days of receipt of the grievance.
- (c) The Grievance Coordinator shall acknowledge receipt of each grievance to the claimant in writing within four business days of its receipt indicating the date the grievance was submitted, the date the grievance was received, the calculated date for the department's response, and whether the grievance was disallowed pursuant to subsection 3482(d)(3).
- (d) The Grievance Coordinator shall ensure that all routine claims returned from the Centralized Screening Team to the Office of Grievances are reviewed and answered in accordance with this section.

(e) A claimant or witness shall be interviewed during the course of responding to a routine claim if departmental staff responsible for answering the claim determine it would assist in resolving the claim. The interview shall be conducted in a manner that provides as much privacy for the claimant as operationally feasible. If a claimant is unavailable to be interviewed or refuses to be interviewed, then those facts shall be documented in the written response.

(f) The Reviewing Authority shall ensure that any individual whose personal interaction with a claimant forms part of the claim is excluded from participating in the grievance process as to that claim, including any interview of a claimant conducted as part of the grievance process.

(1) If the individual in question is a Warden, then an Associate Director, Deputy Director, or the Director from the Division of Adult Institutions shall serve as the Reviewing Authority for that claim.

(2) If the individual in question is a Regional Parole Administrator, then a Deputy Director or the Director from the Division of Adult Parole Operations shall serve as the Reviewing Authority for that claim.

(3) Participating in a committee meeting to discuss a claimant, or that includes a claimant in attendance, does not, by itself, constitute personal interaction.

(g) The Grievance Coordinator shall ensure that a written grievance decision is completed no later than 60 calendar days after receipt of the grievance, unless other statutory or regulatory authority requires a response in less than 60 calendar days, and contains one of the following decisions as to each claim in the grievance:

(1) "Denied," meaning that the Reviewing Authority found by a preponderance of the evidence available that all applicable rules were followed;

(2) "Granted," meaning that the Reviewing Authority found by a preponderance of the evidence available that all applicable rules were not followed, in which case the Reviewing Authority shall order an appropriate remedy;

(3) "No Jurisdiction," meaning that the claim concerns a policy, decision, action, condition, or omission by an independent entity or official which requires that the claimant file a complaint with that entity or official, as described in subsection 3481(e);

(4) "Redirected," meaning that the claim will be forwarded to the appropriate authority described below because it fits one of the following circumstances:

(A) An issue concerning medical, dental, or mental health services provided by the Correctional Health Care Services Division or a dispute concerning a policy, decision, action, condition, or omission by the Correctional Health Care Services Division or its staff shall be redirected to that Division;

(B) A request for a reasonable accommodation based on a disability shall be redirected to the Institutional or Regional Americans with Disabilities Act coordinator;

(C) A request for an interview, item, assistance, or service shall be redirected to a staff member designated by the Hiring Authority for a response;

(D) A request for records that is made pursuant to the California Public Records Act or the California Information Practices Act shall be redirected to the Institutional or Regional Public Records Act coordinator;

(E) A request regarding institutional placement or search preference pursuant to the Transgender Respect, Agency, and Dignity Act of 2020 shall be redirected to the Prison Rape Elimination Act Compliance Manager;

(F) A complaint regarding a classification committee decision about institutional placement pursuant to the Transgender Respect, Agency, and Dignity Act of 2020 shall be redirected to the Departmental Review Board via the Office of Appeals; or

(G) An allegation against an inmate or parolee shall be redirected to a staff member designated by the Hiring Authority for a response;

(5) "Reassigned," meaning that the claim will be reassigned to the appropriate authority described below because it fits one of the following circumstances:

(A) A claim involving documents, witnesses, or other facts that are primarily located at another institution or parole region shall be reassigned to the Office of Grievances where the majority of those facts are located, in which case the Office of Grievances that is presented with the reassigned claim shall treat the claim as received on the date that the sending Office of Grievances received it; or

(B) A request to implement a remedy shall be reassigned to the Remedies Compliance Coordinator referred to in subsection (j)(2).

(6) "Rejected," meaning that the claim will be rejected because it fits one or more of the following circumstances:

(A) the claimant did not submit the claim within the time constraints required by subsection 3482(b), unless the claim concerns an allegation of staff misconduct;

(B) the claim concerns an anticipated policy, decision, action, condition, or omission by the department or departmental staff;

(C) the claim is substantially duplicative of a prior claim by the same claimant, unless the prior claim was rejected as anticipatory pursuant to subsection (B);

(D) the claim concerns harm to a person other than the person who signed the grievance, unless the claim concerns an allegation of staff misconduct;

(E) the claim disputes or contravenes the regulatory framework for the grievance and appeal process itself (specifically, Title 15, Subchapter 5.1, Article 1, Administrative Remedies for Inmates and Parolees);

(7) "Disallowed," meaning the grievance package will be discarded because it was contaminated with organic, toxic, or hazardous materials that may threaten staff safety or institutional security;

(8) "Identified as Staff Misconduct," meaning that the claim involves an allegation of staff misconduct and was referred to the appropriate authority to gather relevant facts, resulting in exhaustion of the administrative remedies process for the claim;

(9) "Pending Legal Matter," meaning that the substance of the claim concerns pending litigation by a party other than the claimant (excluding class action litigation), pending legislation, or pending regulatory action, resulting in exhaustion of the administrative remedies process for the claim; or

(10) "Time Expired," meaning that the Institutional or Regional Office of Grievances was not able to respond to the claim within 60 calendar days, resulting in exhaustion of the administrative remedies process for the claim.

(h) If a claim is rejected as untimely under subsection (g)(6)(a), the grievance decision shall also include the following dates as determined by the Grievance Coordinator: the date the claim was discovered, the date the claim was submitted, the date the claim was received, and the time constraint for submission of the claim pursuant to subsection 3482(b). A claim that is rejected as untimely by the Office of Grievances may be appealed for review by the Office of Appeals pursuant to the procedures in section 3484. If the Office of Appeals grants the appeal, then the claim shall be reassigned to the Office of Grievances at the institution or region where the majority of the facts and circumstances that gave rise to the claim occurred. The Office of Grievances shall treat the claim as received on the date that the Office of Appeals issued its decision and shall issue its own decision in compliance with subsection 3483(g).

(i) The written grievance decision shall be sent to the claimant within two business days of completing the written grievance decision letter.

(j) Implementation of Remedy.

(1) If the Reviewing Authority grants a claim, then the corresponding remedy shall be implemented no later than 30 calendar days after the decision was sent to the claimant, unless:

(A) the remedy requires the disbursement of funds, in which case the remedy shall be implemented no later than 90 calendar days after the decision was sent to the claimant;

or

(B) the remedy requires budget authorization outside the department's existing authority, in which case the remedy shall be implemented no later than one year after the decision was sent to the claimant.

(2) If the remedy has not been implemented and the applicable time constraint has passed, then a claimant may submit a CDCR Form 602-3 (Rev. 01/22), "Request to Implement Remedies," hereby incorporated by reference, directly to the Remedies Compliance Coordinator by regular mail sent to the "Remedies Compliance Coordinator, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, California 95811." Correspondence directed to this address shall not be opened by any departmental staff other than those in the Office of Appeals.

(k) Additional processes and procedures may be promulgated by the Division of Adult Institutions and the Division of Adult Parole Operations so long as they are consistent with this Article.

(l) Exhaustion.

(1) Completion of the review process by the Institutional or Regional Office of Grievances resulting in a decision of "denied," "granted," "no jurisdiction," "redirected," "reassigned," or "rejected" in accordance with subsections (g)(1) through (g)(6) of this section does not constitute exhaustion of all administrative remedies available to a claimant within the department. Nor does completion of the review process resulting in a "disallowed" decision in accordance with subsection (g)(7) of this section because the claimant may submit a new grievance regarding the same claim or claims so long as it is submitted within the time constraints set forth in subsection 3482(b). Exhaustion requires a claimant to appeal such decisions as provided in section 3484.

(2) Completion of the review process by the Institutional or Regional Office of Grievances resulting in a decision of “identified as staff misconduct,” “pending legal matter,” or “time expired” in accordance with subsections (g)(8) through (g)(10) of this section does constitute exhaustion of all administrative remedies available to a claimant within the department. No appeal is available because the claim was exhausted at the conclusion of the review by the Institutional or Regional Office of Grievances.

Note: Authority cited: section 5058, Penal Code. Reference: sections 832.5 and 5054, Penal Code; and section 35.107, Title 28, Code of Federal Regulations.

3484. Preparation and Submittal of an Appeal.

(a) A claimant who wishes to appeal the written grievance decision or remedy provided by an Institutional or Regional Office of Grievances concerning one or more claims they previously submitted in a grievance shall do so in writing by regular mail sent to the “Office of Appeals, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, California 95811” or by electronic kiosk or tablet, if available. Correspondence directed to this address shall not be opened by any departmental staff other than those in the Office of Appeals.

(b) Time constraints. A claimant who wishes to appeal a grievance decision found in subsections 3483(g)(1) through 3483(g)(6) shall submit an appeal within 60 calendar days of discovering the decision by the Institutional or Regional Office of Grievances. Discovery occurs when a claimant knew or should have reasonably known of the decision. The time limit for a parolee to submit an appeal shall not be extended while on suspended status, meaning the parolee has absconded. The time constraint to submit an appeal of a claim shall be extended for the period of time that a claimant is:

- (1) in the custody of another authority for court proceedings;
- (2) in the care of an outside hospital;
- (3) temporarily housed in a medical or mental health crisis bed; or
- (4) actively and directly engaged in fire suppression.

(c) To submit an appeal, a claimant shall:

- (1) type or print legibly on an official CDCR Form 602-2 (Rev. 01/22), “Appeal of Grievance,” hereby incorporated by reference, or complete the form electronically, if available;
- (2) describe in detail why the decision provided by the Institutional or Regional Office of Grievances is inadequate; and
- (3) sign and date the CDCR Form 602-2.

(d) When completing a CDCR Form 602-2, a claimant shall not:

- (1) use threatening, obscene, demeaning, or abusive language, except when quoting persons involved in the claim;
- (2) include information or accusations known to the claimant to be false; or
- (3) contaminate the appeal package by including organic, toxic, or hazardous materials that may threaten staff safety or institutional security, in which case the appeal shall be safely discarded and the entire appeal disallowed. The claimant may re-submit the appeal

concerning the same claim or claims so long as it is submitted within the time constraints set forth in section 3484(b); or

(4) include new claims that were not included in the original grievance, in which case the claim shall be reassigned pursuant to subsection 3485(g)(5)(A).

(e) The CDCR Form 602-2 shall contain a notification to the claimant that the Office of Appeals will review all of the documents previously submitted by the claimant to the Office of Grievances before reaching a decision so none of those documents should be attached to the Form 602-2 submitted to the Office of Appeals, that a copy of the CDCR Form 602-2 will be returned to the claimant with the written appeal decision; but that no other documents submitted by the claimant to the Office of Appeals will be returned.

(f) The appeal package submitted by the claimant shall be stored electronically by the department.

Note: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

3485. Appeal Review.

(a) The Reviewing Authority for the Office of Appeals shall designate at least one official to assess each written appeal within one business day of receipt to determine if it contains information concerning an imminent risk to personal safety, to institutional security, or of sexual abuse, including acts of sexual misconduct as defined by the federal Prison Rape Elimination Act and the California Sexual Abuse in Detention Elimination Act. In addition, the official shall assess if the grievance alleges that the claimant's Earliest Possible Release Date (EPRD) is erroneous and the claimant is scheduled to be released within 90 calendar days of the date the appeal was received by the Office of Appeals. In all instances described above, the official shall refer the matter to the Institutional or Regional Office of Grievances where the majority of the facts and circumstances that gave rise to the claim occurred to be handled pursuant to subsection 3483(a).

(b) If the Office of Appeals determines that a claim involved staff misconduct and that claim was not referred to the appropriate authority to gather relevant facts according to subsection 3482(b), then the Office of Appeals shall grant that claim and order the Centralized Screening Team to refer the allegation to the appropriate authority to gather relevant facts.

(c) The Appeal Coordinator shall acknowledge receipt of each appeal to the claimant in writing within four business days of its receipt indicating the date the appeal was submitted, the date the appeal was received, the calculated date for the department's response, and whether the appeal was disallowed pursuant to subsection 3484(d)(3).

(d) The Appeal Coordinator shall ensure that all routine claims appealed by the claimant to the Office of Appeals are reviewed and answered in accordance with this section.

(e) The full record of each claim shall be made available to the Office of Appeals for purposes of conducting its reviews. The record shall include the claimant's grievance, the claimant's appeal, both acknowledgment letters, all related interviews conducted for the Institutional or Regional Office of Grievances, any relevant documentation prepared for the Office of Grievances, any records contained in the department's information

technology system, and all department rules and memoranda. The record shall not include any new information provided by the claimant to the Office of Appeals that was not made available to the Office of Grievances for their review.

(f) The Reviewing Authority shall exclude any individual whose personal interaction with the claimant forms part of the claim from participating in the appeal process as to that claim. If the individual in question is the Associate Director of the Office of Appeals, then the Director from the Division of Correctional Policy Research and Internal Oversight shall serve as the Reviewing Authority for that claim.

(g) The Appeal Coordinator shall ensure that a written appeal decision is completed no later than 60 calendar days after receipt of the appeal, unless other statutory or regulatory authority requires a response in less than 60 calendar days, and contains one of the following decisions as to each claim in the appeal:

(1) "Denied," meaning that:

(A) the Reviewing Authority found by a preponderance of the evidence available that the decision by the Institutional or Regional Office of Grievances pursuant to subsections 3483(g)(1) or (2) was proper; or

(B) the Appeal Coordinator found by a preponderance of the evidence available that the decision by the Institutional or Regional Office of Grievances pursuant to subsections 3483(g)(3) through (10) was proper;

(2) "Granted," meaning that:

(A) the Reviewing Authority found by a preponderance of the evidence available that the decision by the Institutional or Regional Office of Grievances pursuant to subsections 3483(g)(1) or (2) was not proper, in which case the Reviewing Authority shall order an appropriate remedy; or

(B) the Appeal Coordinator found by a preponderance of the evidence available that the decision by the Institutional or Regional Office of Grievances pursuant to subsections 3483(g)(3) through (10) was not proper, in which case the Appeal Coordinator shall order an appropriate remedy;

(3) "No Jurisdiction," meaning that the claim concerns a policy, decision, action, condition, or omission by an independent entity which requires that the claimant file a grievance with that entity, as described in subsection 3481(e);

(4) "Redirected," meaning that a request for records maintained solely by the Office of Appeals that is made pursuant to the California Public Records Act or the California Information Practices Act shall be redirected to the Public Records Act Coordinator at the Office of Appeals;

(5) "Reassigned," meaning that the claim will be reassigned to the appropriate authority described below because it fits one of the following circumstances:

(A) A claim which was not first submitted in a grievance to an Institutional or Regional Office of Grievances shall be reassigned to the Institutional or Regional Office of Grievances where a majority of the facts and circumstances that gave rise to the claim occurred. The Office of Grievances that is presented with the reassigned claim shall treat the claim as submitted on the date the Office of Appeals received it.

(B) A claim which was first submitted in a grievance but not answered by an Institutional or Regional Office of Grievances shall be reassigned to the Institutional or Regional Office of Grievances where a majority of the facts and circumstances that gave rise to the claim occurred. The Office of Grievances that is presented with the reassigned claim shall treat the claim as submitted on the date that the claim was first received but not answered by an Institutional or Regional Office of Grievances.

(C) A request to implement a remedy shall be reassigned to the Remedies Compliance Coordinator referred to in subsection (j)(2).

(6) "Rejected," meaning that the claim will be rejected because it fits one or more of the following circumstances:

(A) the claimant did not submit the claim within the time constraints required by subsection 3484(b);

(B) the claim concerns an anticipated policy, decision, action, condition, or omission by the department or departmental staff;

(C) the claim is substantially duplicative of a prior claim by the same claimant, unless the prior claim was rejected as anticipatory pursuant to subsection (B);

(D) the claim concerns harm to a person other than the person who signed the appeal;

(E) the claim disputes or contravenes the regulatory framework for the grievance and appeal process itself (specifically, Title 15, Subchapter 5.1, Article 1, Administrative Remedies for Inmates and Parolees);

(7) "Disallowed," meaning the appeal package will be discarded because it was contaminated with organic, toxic, or hazardous materials that may threaten staff safety or institutional security;

(8) "Identified as Staff Misconduct," meaning that the claim involves an allegation of staff misconduct and was referred to the appropriate authority for the gathering of relevant facts, resulting in exhaustion of the administrative remedies process for the claim;

(9) "Pending Legal Matter," meaning that the substance of the claim concerns pending litigation by a party other than the claimant (excluding class action litigation), pending legislation, or pending regulatory action, resulting in exhaustion of the administrative remedies process for the claim; or

(10) "Time Expired," meaning that the department was not able to respond to the claim within 60 calendar days, resulting in the grievance level decision serving as the department's final decision and exhaustion of the administrative remedies process for the claim.

(h) If a claim is rejected as untimely under subsection (g)(6)(a), the appeal decision shall also include the following dates as determined by the Appeal Coordinator: the date the claim was discovered, the date the claim was submitted, the date the claim was received, and the time constraint for submission of the claim pursuant to subsection 3484(b). A claim that is rejected as untimely by the Office of Grievances may not be appealed by the claimant.

(i) The written appeal decision shall be sent to the claimant within two business days of completing the written appeal decision letter. If the Reviewing Authority or Appeal

Coordinator grants a claim, then a copy of the decision shall be simultaneously sent to the appropriate Institutional or Regional Grievance Coordinator.

(j) Implementation of remedy.

(1) If the Office of Appeals grants a claim, then the Institutional or Regional Reviewing Authority shall ensure that the corresponding remedy is implemented no later than 30 calendar days after the decision was sent to the claimant, unless:

(A) the remedy requires the disbursement of funds, in which case the remedy shall be implemented no later than 90 calendar days after the decision was sent to the claimant;

or

(B) the remedy requires budget authorization outside the department's existing authority, in which case the remedy shall be implemented no later than one year after the decision was sent to the claimant.

(2) If the remedy has not been implemented and the applicable time constraint has passed, then the claimant may submit a CDCR Form 602-3 directly to the Remedies Compliance Coordinator by regular mail sent to the "Remedies Compliance Coordinator, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, California 95811." Correspondence directed to this address shall not be opened by any departmental staff other than those in the Office of Appeals.

(k) Additional processes and procedures may be promulgated by the Office of Appeals so long as they are consistent with this Article.

(l) Exhaustion.

(1) Completion of the review process by the Office of Appeals resulting in a decision of "denied," "granted," "no jurisdiction," "identified as staff misconduct," "pending legal matter," or "grievance decision stands" in accordance with subsections (g)(1) through (g)(3) and (g)(8) through (g)(10) of this section constitutes exhaustion of all administrative remedies available to a claimant within the department.

(2) Completion of the review process by the Office of Appeals resulting in a decision to "redirect," "reassign," or "reject" a claim in accordance with subsections (g)(4) through (g)(6) of this section does not constitute exhaustion of all administrative remedies available to a claimant within the department. Nor does completion of the review process resulting in a "disallowed" decision in accordance with subsection (g)(7) of this section because the claimant may submit a new grievance regarding the same claim or claims so long as it is submitted within the time constraints set forth in subsection 3484(b).

Note: Authority cited: section 5058, Penal Code. Reference: sections 832.5 and 5054, Penal Code; and section 35.107, Title 28, Code of Federal Regulations.

New Article 2 title is adopted

Article 2. Research Involving Inmates or Parolees

Former section 3369.5 is renumbered to section 3488 and is unchanged.

3491. Eligibility Review.

Subsections 3491(a) through 3491(f) are unchanged.

(g) Eligibility reviews under this section are subject to the department's ~~inmate appeal process~~ administrative remedies procedures in accordance with ~~Article 8 of Chapter 1 of this Division~~ section 3480, et seq.

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

3492. Eligibility Review and Referral to the Board of Parole Hearings.

Subsections 3492(a) through 3492(c) are unchanged.

(d) Eligibility reviews and referrals under this section are subject to the department's ~~inmate appeal process~~ in accordance with ~~Article 8 of Chapter 1 of this division~~ section 3480, et seq.

Subsections 3492(e) through 3492(f) are unchanged.

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

3548. Payments of Certain Costs by Parolees.

Subsection 3548(a) through 3548(a)(3) remains unchanged.

(b) If the parolee disagrees with the department's finding that the parolee has the ability to pay for the costs associated with the continuous electronic monitoring, the parolee may file an appeal by submitting a ~~CDC Form 602 (rev 12/87), Inmate/Parolee Appeal form to the departmental appeals coordinator~~ CDCR Form 602-1 (01/22), to the Regional Office of Grievances.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004, 3006, 3010.8 and 5054, Penal Code.

3563. Global Positioning System-Payments of Certain Costs by Parolees.

Subsection 3563(a) through 3563(a)(3) remain unchanged.

(b) If the parolee disagrees with the Department's finding that the parolee has the ability to pay for the costs associated with GPS monitoring, the parolee may file an appeal by submitting a ~~CDC Form 602 (Rev. 08/09), Inmate/Parolee Appeal form to the departmental appeals coordinator~~ CDCR Form 602-1 (01/22), to the Regional Office of Grievances.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

3630. Limitations of Parole Services.

Section 3630(a) through (b) remain unchanged.

(c) A determination that an alien is ineligible for the services specified in subdivision (a) may be ~~appealed~~ grieved as provided in Sections ~~3084 through 3084.9~~ of these regulations 3480, et seq.

Subsection 3630(d) through (e)(4) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Section 297.5, Family Code; and Section 5054, Penal Code.

3723. Parolee Rights.

The parolee shall receive a copy of the discharge review decision, including the reasons for a decision not to discharge the parolee, if applicable. The parolee may ~~appeal~~ file a grievance regarding any mistake of fact contained in the discharge review report pursuant to the ~~appeals process~~ administrative remedies procedures provided in sections ~~3084-3084.9~~ 3480, et seq. If a mistake of fact is substantiated and that mistake results in a change in the recommendation to retain on parole, the corrected discharge review report with the recommendation to discharge shall be corrected and submitted to the Board of Parole Hearings with a request to reconsider the decision to retain.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

ADOPT

STAFF USE ONLY	OGT Log No: _____ Date Received: _____
	Decision Due Date: _____
	Categories: _____

Claimant Name: _____ CDCR #: _____

Institution/Parole Region: _____ Current Housing/Parole Unit: _____

STAFF USE ONLY

Use this form to appeal a decision or a remedy by the Office of Grievances.

Do not include new complaints on this form, they must first be filed with the Office of Grievances on a Form 602-1.

OGT Log No: _____ Claim No: _____

Explain the reason for your appeal. Be as specific as you can.

I am dissatisfied with the response I was given because _____

This form shall be submitted by mail to:
Office of Appeals
Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 95811

IMPORTANT:

The Office of Appeals will consider all of the supporting documentation you previously submitted to the Office of Grievances when reviewing your appeal, but will not consider any new documentation.

Therefore, it is recommended you not attach any documentation to this form.

Furthermore, any documentation you attach to this form will not be returned to you.

Claimant Signature: _____

Date Signed: _____

REQUEST TO IMPLEMENT REMEDIES

ADOPT

CDCR 602-3 (Rev. 01/22)

STAFF USE ONLY	OGT Log No: _____ Date Received: _____
	Remedy Confirmed: _____ Remedy Unconfirmed: _____
	Screen Out: _____ Status Letter: _____ Resolved: _____

Claimant Name: _____ CDCR #: _____

Institution/Parole Region: _____ Current Housing/Parole Unit: _____

Use this form to ask for a remedy that was granted but is overdue.

Do not include new complaints on this form, they must first be filed with the Office of Grievances on a Form 602-1.

Claim No: _____

Date of Decision: _____

Description of Remedy: _____

This form must be submitted by mail to:
 Remedies Compliance Coordinator
 Department of Corrections and Rehabilitation
 P.O. Box 942883
 Sacramento, CA 95811

IMPORTANT:

The Remedies Compliance Program is only intended to resolve delays in the implementation of a remedy previously granted by the Office of Grievances or the Office of Appeals; it is not intended for new issues, to seek additional remedies, or to dispute the remedy provided.

When reviewing this request, the Office of Appeals will consider all of the supporting documentation you previously submitted to the Office of Grievances but will not consider any new documentation.

Therefore, it is recommended you not attach any documentation to this form.

Furthermore, any documentation you attach to this form will not be returned to you.

Claimant Signature: _____

Date Signed: _____

INMATE PARTICIPATION AGREEMENT—JOINT VENTURE PROGRAM (JVP)
CDCR 1872 (Rev. 03/20)

Page 1 of 2

Earned wages will be distributed to me by the department once per month regardless of the frequency the employer issues payroll. I authorize the CDCR and my employer to issue checks payable to "California Department of Corrections and Rehabilitation for Inmate Name and CDCR Number," and I authorize CDCR's contracted financial services firm to deposit the checks for distribution as described above.

If I make voluntary supplemental deposits to my mandatory savings account, those funds will also be restricted from my access until release. Upon my parole, my mandatory savings in its entirety will be made available to me. If I am owed funds after my release, they will be forwarded to my Parole Agent in accordance with the established monthly disbursement schedule unless you make other arrangements with the JVP.

I also understand the above deductions from my net wages after taxes are a requirement to participate in the JVP and the handling of my payroll in the above mentioned manner expedites the disbursement process.

I agree this agreement shall supersede any provisions in any other document regarding the JVP, which may conflict with this agreement.

I have read, understand, and agree to the above terms and conditions and know what is expected of me as a participant in the JVP.

Inmate-Employee's Name (Print)	Inmate-Employee Signature	CDC Number	Date Signed
Institution	JVP Company Name		
Staff Witness Name	Staff Witness Signature	Date Signed	

DISTRIBUTION **White:** JVP Headquarters, **Canary:** Central File, **Pink:** Inmate-Employee

INMATE PARTICIPATION AGREEMENT—JOINT VENTURE PROGRAM (JVP)
CDCR 1872 (Rev. 03/20)

Page 2 of 2

WELCOME TO THE JOINT VENTURE PROGRAM. CONGRATULATIONS ON BEING SELECTED FOR EMPLOYMENT WITH A JOINT VENTURE COMPANY. READ THE TERMS AND CONDITIONS CAREFULLY, AND IF YOU AGREE TO THEM, SIGN WHERE INDICATED BELOW.

I am volunteering to participate in the California Department of Corrections and Rehabilitation (CDCR) Joint Venture Program (JVP). As a participant in JVP, I am responsible for complying with the requirements of my employer and the CDCR. I understand my employment is "at will," and as such is at the discretion of my employer. I understand that I may be lawfully terminated by my Joint Venture employer at any time with or without cause. In addition, I understand that my participation in the JVP may be terminated at any time, with or without cause, by CDCR.

As a condition of my participation in JVP, I agree to participate in random urine testing.

I understand that I may appeal or file a complaint regarding any alleged violation of my rights under Penal Code Section 2717.8 or relevant Labor Code provisions, and that I shall not be subject to retaliation or adverse action by CDCR or my employer for exercising rights guaranteed under the Labor Code or elsewhere in law to address employer-related matters. I understand that I may have rights under the State Labor Laws that can be protected through the complaint procedure of the State of California's Division of Labor Standards Enforcement.

Deductions on my W-4 form will correspond with the information recorded in my Central File, and I will not request withholding of additional amounts of taxes. I hereby authorize the CDCR to make the following deductions which shall not exceed 80 percent of my gross wages in accordance with Section 2717.8 of the Penal Code (Compensation of inmate workers deductions) and Sections 3476 (h) and (i) of Title 15 of the California Code of Regulations:

Federal, state, and local taxes.

20 percent of my net wages after taxes shall be paid to any lawful restitution fine, or contributed to any fund established by law to compensate victims of crime (generic restitution).

20 percent of my net wages after taxes shall be remitted to CDCR for payment of room and board.

20 percent of my net wages after taxes shall be paid for support of family pursuant to state statute or court order. If there is no such state statute or court order, I may designate a family member to receive this portion. If there is no state statute or court order and I choose not to designate a family member, this portion will be held in a mandatory savings account.

I further authorize the Department of Corrections and Rehabilitation to distribute my net wages after taxes once each month in accordance with the above deductions. The remainder of my net wages after taxes shall be distributed to me as follows:

20 percent of my net wages after taxes shall be available to me once per month with a statement revealing the disbursements made. These earnings will be placed into my Inmate Trust Account for expenditure per standard institution rules upon receipt at the institution.

The remainder of my net wages after taxes shall be deposited in a mandatory savings account and will be available to me upon my release.

ADOPT

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTIFICATION OF DISAPPROVAL FOR MAIL/PACKAGES/PUBLICATIONS

CDCR 1819 (Rev. 07/18)

Page 1 of 1

INMATE'S NAME	CDCR NUMBER	HOUSING
---------------	-------------	---------

A) MAIL / PACKAGES SECTION (Complete for mail or package cases only)

<input type="checkbox"/> INCOMING MAIL/PACKAGE	<input type="checkbox"/> OUTGOING MAIL/PACKAGE
--	--

LIST ITEM(S) WHICH MEET DISAPPROVAL CRITERIA

DESCRIPTION OF MATERIAL THAT MEETS DISAPPROVAL CRITERIA, INCLUDE CCR, TITLE 15 SECTION

B) PUBLICATIONS SECTION (Complete for publication cases only)

TITLE OF PUBLICATION (Include issue/date)	PUBLISHER	PAGE(S) WHICH MEET DISAPPROVAL CRITERIA
---	-----------	---

DESCRIPTION OF MATERIAL THAT MEETS DISAPPROVAL CRITERIA, INCLUDE CCR, TITLE 15 SECTION

INITIAL REVIEW (Must be completed in all cases)

PRINTED NAME OF STAFF	SIGNATURE OF STAFF	DATE SIGNED	DATE FORWARDED TO CAPTAIN
-----------------------	--------------------	-------------	---------------------------

CAPTAIN REVIEW ALLOW DISALLOW FORWARD FOR WARDEN/DESIGNEE REVIEW

PRINTED NAME OF CAPTAIN	SIGNATURE OF CAPTAIN	DATE SIGNED	DATE FORWARDED TO INMATE
-------------------------	----------------------	-------------	--------------------------

FINAL DECISION ALLOW DISALLOW (Must be completed in all cases)

PRINTED NAME OF WARDEN/DESIGNEE	SIGNATURE OF WARDEN/DESIGNEE	DATE SIGNED	DATE FORWARDED TO INMATE
---------------------------------	------------------------------	-------------	--------------------------

ALLOW/DISPOSITION	SENDER/DESIGNEE INFORMATION
<input type="checkbox"/> RETURNED TO INMATE _____ (Date)	FIRST NAME _____ MI _____ LAST NAME _____

DISALLOW/INMATE'S REQUEST

<input type="checkbox"/> HOLD PENDING INMATE APPEAL	ADDRESS (NUMBER AND STREET)
<input type="checkbox"/> RETURN TO SENDER/DESIGNEE _____ (At Inmate's Expense) (Date)	ADDRESS (CONTINUED)
<input type="checkbox"/> DESTROY/ DATE DESTROYED _____	CITY _____ STATE _____ ZIP CODE _____

***INMATE HAS THIRTY (30) CALENDAR DAYS, AFTER NOTIFICATION IS FORWARDED TO MAKE A REQUEST, OTHERWISE MATERIAL WILL BE DESTROYED.
*ALL APPEALS REGARDING MAIL/PACKAGES SHALL BE REFERRED TO THE WARDEN'S DESIGNATED STAFF.
ALL APPEALS REGARDING PUBLICATIONS SHALL BE REFERRED TO THE CAPTAIN.

PRINTED NAME OF INMATE	SIGNATURE OF INMATE	DATE SIGNED
------------------------	---------------------	-------------

- | | |
|----------------------|---|
| DISTRIBUTION: | <ol style="list-style-type: none"> 1. Mailroom/R&R staff completes White (original) upon initial review then forwards to Captain for decision. 2. Captain completes White (original) then forwards to Warden/Designee if decision cannot be made - Green copy to inmate. 3. Captain/Warden/Designee provides final decision to Allow/Disallow - Goldenrod/Pink/Canary copies to inmate. 4. Inmate provides response, retains Canary, and returns Goldenrod/Pink copies to Mailroom/R&R. 5. Mailroom retains Goldenrod copy with White (original) and forwards Pink copy to Sender/Designee. |
| A) | |
| DISTRIBUTION: | <ol style="list-style-type: none"> 1. Mailroom/R&R staff completes White (original) upon initial review then forwards to Captain for decision. 2. Captain completes White (original) then forwards to Warden/Designee if decision cannot be made - Green copy to inmate. 3. Headquarters renders final decision within 30 days. 4. Captain forwards Headquarter's decision to Allow/Disallow to inmate on Goldenrod/Pink/Canary copies. 5. Inmate provides response, retains Canary, and returns Goldenrod/Pink copies to Mailroom/R&R. 6. Mailroom retains Goldenrod copy with White (original) and forwards Pink copy to Sender/Designee. |
| B) | |

IAB USE ONLY	Institution/Parole Region: _____ Log #: _____ Category: _____ <hr/> <p style="text-align: center;">FOR STAFF USE ONLY</p>
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You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink,

Name (Last, First): _____	CDC Number: _____	Unit/Cell Number: _____	Assignment: _____
---------------------------	-------------------	-------------------------	-------------------

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.): _____

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): _____

B. Action requested (If you need more space, use Section B of the CDCR 602-A): _____

Supporting Documents: Refer to CCR 3084.3.

Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

No, I have not attached any supporting documents. Reason: _____

Inmate/Parolee Signature: _____ Date Submitted: _____

By placing my initials in this box, I waive my right to receive an interview.

STAFF USE ONLY

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? Yes No

This appeal has been:

Bypassed at the First Level of Review. Go to Section E.

Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

Cancelled (See attached letter) Date: _____

Accepted at the First Level of Review.

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: Granted Granted in Part Denied Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____
(Print Name)

Reviewer: _____ Title: _____ Signature: _____
(Print Name)

Date received by AC: _____

AC Use Only

Date mailed/delivered to appellant ___ / ___ / ___

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Inmate/Parolee Signature: _____ Date Submitted: _____

E. Second Level - Staff Use Only Staff - Check One: Is CDCR 602-A Attached? Yes No

This appeal has been:

By-passed at Second Level of Review. Go to Section G.

Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

Cancelled (See attached letter)

Accepted at the Second Level of Review

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: Granted Granted in Part Denied Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____
(Print Name)

Reviewer: _____ Title: _____ Signature: _____
(Print Name)

Date received by AC: _____

AC Use Only
Date mailed/delivered to appellant ___/___/___

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Inmate/Parolee Signature: _____ Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____ Date: _____

Cancelled (See attached letter) Date: _____

Accepted at the Third Level of Review. Your appeal issue is Granted Granted in Part Denied Other: _____

See attached Third Level response.

Third Level Use Only
Date mailed/delivered to appellant ___/___/___

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Print Staff Name: _____ Title: _____ Signature: _____ Date: _____

**INMATE PARTICIPATION AGREEMENT –
JOINT VENTURE PROGRAM (JVP)
CDCR 1872 (Rev. 09/05)**

Earned wages will be distributed to me by the department once per month regardless of the frequency the employer issues payroll. I authorize the CDCR and my employer to issue checks payable to “California Department of Corrections and Rehabilitation for Inmate Name and CDCR Number,” and I authorize CDCR’s contracted financial services firm to deposit the checks for distribution as described above.

If I make voluntary supplemental deposits to my mandatory savings account, those funds will also be restricted from my access until release. Upon my parole, my mandatory savings in its entirety will be made available to me. If I am owed funds after my release, they will be forwarded to my Parole Agent in accordance with the established monthly disbursement schedule unless you make other arrangements with the JVP.

I also understand the above deductions from my net wages after taxes are a requirement to participate in the JVP and the handling of my payroll in the above mentioned manner expedites the disbursement process.

I agree this agreement shall supersede any provisions in any other document regarding the JVP, which may conflict with this agreement.

I have read, understand, and agree to the above terms and conditions and know what is expected of me as a participant in the JVP.

Inmate-Employee’s Name (Print)	Inmate-Employee Signature	CDC Number	Date Signed
Institution	JVP Company Name		
Staff Witness Name	Staff Witness Signature	Date Signed	

ORIGINAL – JVP Headquarters / Canary – Central File / Pink – Inmate-Employee

**INMATE PARTICIPATION AGREEMENT –
JOINT VENTURE PROGRAM (JVP)
CDCR 1872 (Rev. 9/05)**

WELCOME TO THE JOINT VENTURE PROGRAM. CONGRATULATIONS ON BEING SELECTED FOR EMPLOYMENT WITH A JOINT VENTURE COMPANY. READ THE TERMS AND CONDITIONS CAREFULLY, AND IF YOU AGREE TO THEM, SIGN WHERE INDICATED BELOW.

I am volunteering to participate in the California Department of Corrections and Rehabilitation (CDCR) Joint Venture Program (JVP). As a participant in JVP, I am responsible for complying with the requirements of my employer and the CDCR. I understand my employment is "at will," and as such is at the discretion of my employer. I understand that I may be lawfully terminated by my Joint Venture employer at any time with or without cause. In addition, I understand that my participation in the JVP may be terminated at any time, with or without cause, by CDCR.

As a condition of my participation in JVP, I agree to participate in random urine testing.

I understand that I may appeal or file a complaint regarding any alleged violation of my rights under Penal Code Section 2717.8 or relevant Labor Code provisions, and that I shall not be subject to retaliation or adverse action by CDCR or my employer for exercising rights guaranteed under the Labor Code or elsewhere in law to address employer-related matters. I understand that I may have rights under the State Labor Laws that can be protected through the complaint procedure of the State of California's Division of Labor Standards Enforcement.

Deductions on my W-4 form will correspond with the information recorded in my Central File, and I will not request withholding of additional amounts of taxes. I hereby authorize the CDCR to make the following deductions which shall not exceed 80 percent of my gross wages in accordance with Section 2717.8 of the Penal Code (Compensation of inmate workers deductions) and Sections 3485 (h) and (i) of Title 15 of the California Code of Regulations:

Federal, state, and local taxes.

20 percent of my net wages after taxes shall be paid to any lawful restitution fine, or contributed to any fund established by law to compensate victims of crime (generic restitution).

20 percent of my net wages after taxes shall be remitted to CDCR for payment of room and board.

20 percent of my net wages after taxes shall be paid for support of family pursuant to state statute or court order. If there is no such state statute or court order, I may designate a family member to receive this portion. If there is no state statute or court order and I choose not to designate a family member, this portion will be held in a mandatory savings account.

I further authorize the Department of Corrections and Rehabilitation to distribute my net wages after taxes once each month in accordance with the above deductions. The remainder of my net wages after taxes shall be distributed to me as follows:

20 percent of my net wages after taxes shall be available to me once per month with a statement revealing the disbursements made. These earnings will be placed into my Inmate Trust Account for expenditure per standard institution rules upon receipt at the institution.

The remainder of my net wages after taxes shall be deposited in a mandatory savings account and will be available to me upon my release.

INMATE'S NAME	CDC NUMBER	HOUSING
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MAIL / PACKAGES SECTION (Complete for mail or package cases only)

INCOMING MAIL/PACKAGE OUTGOING MAIL/PACKAGE

LIST ITEM(S) WHICH MEET DISAPPROVAL CRITERIA

DESCRIPTION OF MATERIAL THAT MEETS DISAPPROVAL CRITERIA, INCLUDE CCR, TITLE 15 SECTION

DISPOSITION	SENDER INFORMATION		
<input type="checkbox"/> HELD PENDING INVESTIGATION/APEAL <input type="checkbox"/> RETURNED TO SENDER _____ (At Inmate's Expense) (Date) <input type="checkbox"/> DESTROYED *(INMATE HAS THIRTY (30) CALENDAR DAYS, AFTER NOTIFICATION OF DISAPPROVAL HAS BEEN FORWARDED TO LET STAFF KNOW THE CHOICE OF DISPOSAL, OTHERWISE MATERIAL WILL BE DESTROYED).	FIRST NAME	MI	LAST NAME
	ADDRESS (NUMBER AND STREET)		
	CITY	STATE	ZIP CODE
	ACKNOWLEDGE RECEIPT OF THIS NOTIFICATION. (INMATE'S SIGNATURE)		DATE SIGNED

AUTHORITY TO DISALLOW (Must be completed in all cases)

PRINTED NAME OF WARDEN'S DESIGNEE	SIGNATURE OF WARDEN'S DESIGNEE	DATE SIGNED	DATE FORWARDED TO INMATE
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PUBLICATIONS SECTION (Complete for publication cases only)

TITLE OF PUBLICATION (Include issue/date)	PUBLISHER	PAGE(S) WHICH MEET DISAPPROVAL CRITERIA
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DESCRIPTION OF MATERIAL THAT MEETS DISAPPROVAL CRITERIA, INCLUDE CCR, TITLE 15 SECTION

DISPOSITION	DESIGNEE INFORMATION		
<input type="checkbox"/> HELD PENDING INVESTIGATION/APEAL <input type="checkbox"/> DESTROYED <input type="checkbox"/> RETURNED TO OUTSIDE DESIGNEE AT INMATE'S EXPENSE _____ (DATE) **(INMATE HAS THIRTY (30) CALENDAR DAYS, AFTER NOTIFICATION OF DISAPPROVAL HAS BEEN FORWARDED TO LET STAFF KNOW THE CHOICE OF DISPOSAL, OTHERWISE MATERIAL WILL BE DESTROYED).	FIRST NAME	MI	LAST NAME
	ADDRESS (NUMBER AND STREET)		
	CITY	STATE	ZIP CODE
	ACKNOWLEDGE RECEIPT OF THIS NOTIFICATION: (INMATE'S SIGNATURE)		DATE SIGNED

AUTHORITY TO DISALLOW (Must be completed in all cases)

CAPTAIN'S PRINTED NAME	CAPTAIN'S SIGNATURE	DATE SIGNED	DATE FORWARDED TO INMATE
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DISTRIBUTION: WHITE - MAILROOM CANARY - INMATE PINK - SENDER / DESIGNEE

*ALL APPEALS REGARDING MAIL/PACKAGES SHALL BE REFERRED TO THE WARDEN'S DESIGNATED STAFF.
 **ALL APPEALS REGARDING PUBLICATIONS SHALL BE REFERRED TO THE CAPTAIN.

REPEAL

STATE OF CALIFORNIA
INMATE/PAROLEE REQUEST FOR INTERVIEW, ITEM OR SERVICE
CDCR 22 (10/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SECTION A: INMATE/PAROLEE REQUEST

NAME (Print): (LAST NAME)		(FIRST NAME)	CDC NUMBER:	SIGNATURE:
HOUSING/BED NUMBER:	ASSIGNMENT:		HOURS FROM ____ TO ____	TOPIC (I.E. MAIL, CONDITION OF CONFINEMENT/PAROLE, ETC.):

CLEARLY STATE THE SERVICE OR ITEM REQUESTED OR REASON FOR INTERVIEW:

METHOD OF DELIVERY (CHECK APPROPRIATE BOX) ****NO RECEIPT WILL BE PROVIDED IF REQUEST IS MAILED ****

- SENT THROUGH MAIL: ADDRESSED TO: _____ DATE MAILED: ____/____/____
- DELIVERED TO STAFF (STAFF TO COMPLETE BOX BELOW AND GIVE GOLDENROD COPY TO INMATE/PAROLEE):

RECEIVED BY: PRINT STAFF NAME:	DATE:	SIGNATURE:	FORWARDED TO ANOTHER STAFF? (CIRCLE ONE) YES NO
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IF FORWARDED - TO WHOM:	DATE DELIVERED/MAILED:	METHOD OF DELIVERY: (CIRCLE ONE) IN PERSON BY US MAIL
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SECTION B: STAFF RESPONSE

RESPONDING STAFF NAME:	DATE:	SIGNATURE:	DATE RETURNED:
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SECTION C: REQUEST FOR SUPERVISOR REVIEW

PROVIDE REASON WHY YOU DISAGREE WITH STAFF RESPONSE AND FORWARD TO RESPONDENT'S SUPERVISOR IN PERSON OR BY US MAIL. KEEP FINAL CANARY COPY.

SIGNATURE:	DATE SUBMITTED:
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SECTION D: SUPERVISOR'S REVIEW

RECEIVED BY SUPERVISOR (NAME):	DATE:	SIGNATURE:	DATE RETURNED:
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INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes a complete restructuring of the inmate and parolee grievance process and the associated appeal process. The grievance and appeal process is the non-judicial means provided by the department to address inmate and parolee claims. On June 1, 2020, the department implemented emergency regulations, pursuant to Penal Code Section 5058.3, based on the operational needs of the department to require the proposed revisions to the grievance and appeal process within the California Code of Regulations (CCR), Title 15, Division 3.

The department's inmate and parolee grievance and appeal process, with origins dating back to 1989, has undergone several revisions over the years. Each revision was in response to rising numbers of grievances and appeals which were backlogging the system. Many of the revisions established strict filing requirements, filing limits, and attempted to curtail misuse of the process. Following each revision, appeal backlogs were brought under control, but not without a cost. As the checks and balances were administered over the years, hurdles were erected that limited access to those for whom the process was initially intended to serve: the department's inmate and parolee populations. It has long been the department's policy to provide offenders with an administrative remedy process to resolve grievances, which in turn, enables the department to review its policies, procedures, and actions that may adversely impact the welfare of inmates and parolees alike.

Most significantly, the department's appeals process, and the responsibility for responding to "second level" inmate and parolee appeals, has been reorganized internally. The Office of Appeals (OOA) has been transferred from the Division of Adult Institutions (DAI) and placed in a different chain of command, under the purview of the Division of Correctional Policy Research and Internal Oversight (CPRIO). This change was implemented to ensure that the review of all grievances on appeal is done objectively, without any appearance of reviewer bias, and without perceived conflict of interest.

Further, these new regulations restructure the grievance and appeal process to streamline the handling of claims, clarify staff roles and responsibilities, and provide the inmate or parolee with a clear response to each claim submitted in a grievance or appeal of a grievance decision. This reform will improve the department's transparency to the inmate or parolee and increase confidence in the department's decision-making process.

To summarize, this rulemaking action will:

- Move the OOA to a separate division within the department to improve independence and reduce the potential for bias in the handling of inmate and parolee appeals of grievances.
- Restructure the process for handling all inmate and parolee grievances and appeals of grievances to improve access and response times.
- Expedite the handling of inmate and parolee claims which contain information concerning personal safety, institutional security, sexual misconduct, or, in specified circumstances, a claim that an inmate's Earliest Possible Release Date (EPRD) is erroneous.
- Clarify the roles and responsibilities of departmental staff at the various institutional and regional grievance offices and at the department's OOA.
- Introduce three new forms for the grievance and appeal process: 1) the CDCR Form 602-1 (Rev. 01/22), Grievance Form; 2) the CDCR Form 602-2 (Rev. 01/22), Appeal of Grievance Form; and, 3) the CDCR Form 602-3 (Rev. 01/22), Request to Implement Remedies Form.

It should be noted that the grievance and appeal regulations were formerly located in an article which pertained primarily to the DAI; specifically, the institutions. With the relocation of the OOA

from DAI to CPRIO, the decision was made to relocate the grievance and appeal regulations to a new location; which also made for a better fit as this process affects both inmates and parolees. Hence, a new subchapter was established: Inmate and Parolee Programs.

With the immediate implementation of this rulemaking action, the department seeks to make CDCR safer and more humane by effectively managing its responsibility to provide inmates and parolees with timely and well-reasoned responses to their grievances and appeals of those grievances, thus resolving as many claims as possible, at the lowest level possible, with a process that is more accessible, and responsive.

Furthermore, it is the department's intent for these regulations to significantly improve the handling of inmate and parolee grievances and appeals of grievances which in turn will improve departmental transparency, integrity, and staff accountability.

ANTICIPATED BENEFITS OF THE REGULATIONS:

These regulations will significantly improve the department's handling of inmate and parolee grievances and appeals of grievances, which in turn will improve departmental transparency, integrity, and staff accountability.

The department seeks to make CDCR safer and more humane by effectively managing its core responsibility to provide inmates and parolees with timely and well-reasoned responses to their grievances and appeals of those grievances, thus resolving as many claims as possible at the lowest level possible with a process that is more accessible, responsive, and meaningful.

These new regulations restructure the grievance and appeal process to streamline the handling of claims, clarify staff roles and responsibilities, and provide the inmate or parolee with a clear response to each claim submitted in a grievance or appeal of a grievance decision. These efficiencies are intended to reduce overall processing costs, improve claimant access, and reduce future litigation by reducing the administrative obstacles that too often prevented the process from focusing on the actual issues presented. Providing clear reasoning why a claim was approved or disapproved, including the implementation of a remedy when a need is identified, will enhance the effectiveness of the Department's administrative remedy process.

CONSIDERATION OF ALTERNATIVES:

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

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

ECONOMIC IMPACT ASSESSMENT:

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

Creation or Elimination of Jobs within the State of California

The Department has determined that this rulemaking action will not have an impact on the creation of new, or elimination of existing, jobs within California. Job creation or elimination is not affected by the management of correctional facilities or the handling of inmate and parolee grievances.

Creation of New, Expansion or Elimination of Existing Businesses Currently Doing Business within the State of California

The Department has determined that this rulemaking action will not have an impact on the creation of new, or the expansion or elimination of existing, businesses within California because private businesses are not affected by the management of correctional facilities or the handling of inmate and parolee grievances.

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

The Department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by incentivizing inmates and parolees to resolve complaints at the lowest level possible, thus avoiding expensive and time-consuming litigation. In addition, to the extent these regulations improve the transparency and efficiency of the department's grievance and appeal process, these regulations may benefit the welfare of California residents by modeling non-confrontational techniques for dispute resolution which will enhance the rehabilitative mission of the department.

MATERIALS RELIED UPON:

In proposing amendments to these regulations, the department has not identified or relied upon any technical, theoretical, or empirical study, report, or similar document.

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

Note: Syntax or punctuation edits, including minor textual or grammatical edits such as the addition or removal of commas, have been made throughout the text.

3000. Definitions.

Section 3000 is amended to delete the definitions for "Appeal" and "Grievance" as the definitions for the grievance and appeal process are now included in section 3480.

Section 3000 is amended to update cross references within the definition for "Project" as the sections this definition refers to have renumbered from sections 3475 through 3478 to sections 3465 through 3468.

3045. Timekeeping and Reporting

Section 3045 is amended to transition from now outdated terminology to language that accurately reflects the new grievance and appeal process.

3077.3. Senate Bill 618 Participant Institutional Programming.

Subsection 3077.3(f)(2)(C)(4) is amended to replace "inmate appeal process" with "administrative remedies procedures" as the latter term more accurately reflects the new

grievance and appeal process. The subsection also updates cross references to the new regulatory location for the grievance and appeal process.

3078.4. Alternative Custody Program Processing.

Subsection 3078.4(e) is amended to transition from now outdated terminology to language that more accurately reflects the new grievance and appeal process. The subsection also updates cross references to the new regulatory location for the grievance and appeal process.

Sections 3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5, 3084.6, 3084.7, 3084.8, 3084.9, 3085, and 3086 are repealed to remove the old inmate appeal process. These regulations are being replaced with the new inmate grievance and appeal regulations codified in sections 3480 et seq.

New section 3084 is adopted to establish the process for submitting and reviewing grievances in whole or part containing allegations of inmate-on-inmate sexual violence, staff on inmate sexual misconduct, and sexual harassment of inmates. This section is based upon repealed section 3084.9 and is consistent with the department's commitment to comply with federal and state guidelines related to the Prison Rape Elimination Act. The inmate shall not be required to use any informal grievance process, or otherwise attempt to informally resolve with staff an alleged incident of inmate-on-inmate sexual violence, or staff-on-inmate sexual misconduct, because there is no legal requirement or expectation that the victim of sexual violence or sexual misconduct will contact their alleged perpetrator. Subsection (b) previously existed in now-repealed subsection 3084.2(g) and is slightly amended to remove parolees, as this section now deals with inmates only.

3134.1. Processing of Publications.

Subsection 3134.1(d) is amended to transition from now outdated terminology to language that accurately reflects the new grievance and appeal process.

3136. Disapproval of Inmate Mail.

Subsection 3136(a) is amended to revise cross-references to the grievance and appeal regulations.

3137. Appeals and Complaints Relating to Mail and Correspondences.

Subsection 3137(a) is amended to provide inmates direction concerning their ability to utilize the new grievance and appeal process to address any concern regarding departmental rules, regulations, policies approved facility procedures and their application relating to mail and correspondence. The subsection also provides any non-inmate or parolee correspondents, and publishers with direction concerning their right to file a complaint regarding departmental rules, regulations, policies, approved facility procedures and their application relating to mail and correspondence.

Subsection 3137(b) is amended to update cross references to the new regulatory location for the grievance and appeal process. The subsection also transitions from now outdated terminology to language that reflects the new grievance and appeal process.

Subsection 3137(c) is amended to update terminology. The term appeal is replaced with complaint here as complaint is the term used for non-inmates (e.g., inmate family members, visitors, publishers, etc.). The grievance and appeals process is reserved for inmates and parolees only.

3141. Confidential Correspondence.

Subsection 3141(c)(8) is amended to identify the change in title from Inmate Appeals to the Office of Appeals.

3173.1. Visiting Restrictions with Minors.

Subsection 3173.1(g) is amended to reflect the new grievance terminology and to update cross references.

3179. Complaints Relating to Visiting title is amended.

Subsection 3179(a) is amended, and 3179(a)(1) and (a)(2) are deleted to remove inmates, as this subsection now establishes the process used by non-inmates only, to file a complaint concerning visiting. Inmates will address any claims concerning visiting through the new grievance and appeals process. The term appeal is replaced by complaint here as complaint is the term used for non-inmates (e.g., inmate family members, visitors, publishers, etc.). The grievance and appeals process is reserved for inmates and parolees only.

Subsections 3179(b), (c) and (d) are amended to update terminology. The term appeal is replaced by complaint here as complaint is the term used for non-inmates (e.g., inmate family members, visitors, publishers, etc.). The grievance and appeals process is reserved for inmates and parolees only.

Section 3193. Liability.

Subsection 3193(b) is amended to establish that the administrative remedy process is replacing the appeal process. Additionally, cross references are updated.

Section 3220.4 Movies or Videos for Inmate Viewing title is amended.

Subsections 3220.4(a), (b), (c), (d), (e), and (f) are amended to establish that the administrative remedy process is replacing the appeal process. Terminology is also updated.

3230. Establishment of Inmate Advisory Councils.

Subsections 3230(d) and (d)(1) are amended to update terminology only.

3282. Use of Telephones by Inmates.

Subsection 3282(g) is amended to amend grammar only.

Subsection 3282(g)(8) is amended to remove inmates, as this subsection now establishes the process used by non-inmates only, to file a complaint concerning confidential phone calls. Inmates will address any claims concerning confidential phone calls through the new grievance and appeals process.

Section 3369.5 is renumbered to section 3488.

3378.4. Security Threat Group Behavior or Activity.

Subsection 3378.4(b)(3)(A)4. Is amended to update cross references to the new regulatory location for the grievance and appeal process. With this cross reference, the remainder of the verbiage is no longer necessary and is deleted.

3383. State of Emergency.

Subsections 3383(d) is amended to reflect the new grievance and appeal process, and clarify that the subsection also applies to any other written complaints filed by non-inmates.

3475. Disabled Veteran Business Enterprise Goal is renumbered to section 3465.

3476. Disabled Veteran Business Enterprise Bid and Sole Source Requirements is renumbered to section 3466, and cross references are updated.

3477. Certification of a Disabled Veteran Business Enterprise is renumbered to section 3467.

3478. Good Faith Effort Documentation is renumbered to section 3468.

3479. Monitoring Disabled Veteran Business Enterprise Goals is renumbered to section 3469.

3480. Joint Venture Program is renumbered to section 3470.

3480.1. Joint Venture Policy Advisory Board is renumbered to section 3471.

3481. Joint Venture Employer Selection Criteria is renumbered to section 3472.

3482. Joint Venture Program Contracts is renumbered to section 3473.

Subsection 3473(a)(4) is amended to update cross-references only.

Subsection 3473(a)(12)(I) is amended to update cross-references only.

Subsection 3473(a)(12)(R) is amended to update cross-references only.

3483. Joint Venture Lease is renumbered to section 3474.

3484. Monitoring Comparable Wages and Wage Plans is renumbered to section 3475.

3485. Inmate Joint Venture Program Participation is renumbered to section 3476 and amended.

Section 3476 is amended to remove the printing of the CDCR Form 1872 in the CCR. The form is now incorporated by reference.

Subsections 3476(d) through 3476(d)(4) are amended to update cross references to the grievance and appeal regulations and documents incorporated by reference. The subsection is also amended by citing the CDCR Form 1872 revision date March 2020 instead of the old revision date of September 2005. The phrase “which is incorporated by reference” is added as this should have been done when this form was originally added to the CCR.

Subsections 3476(i) is amended to update cross-reference only.

3486. Compliance is renumbered to section 3477 amended to update cross references only.

Section 3480 is adopted to establish an implementation date for the new grievance and appeal process for all inmates and parolees (referred to as “claimants”) and to provide definitions for key words and phrases used throughout this Article. To assist with understanding, this new administrative remedy process consists of two levels of review – one grievance level review (referred to as the first level) and one appeal level review of the grievance decision (referred to as the second level). This new grievance and appeal process replaces the former three-tiered process. The new two-level process is more streamlined, combining two local levels of review into one level; thereby, only requiring a claimant to submit one grievance at the local level. The new process also drastically reduces the reasoning previously allowed to preclude an inmate or parolee from having their issue addressed. These efficiencies are intended to reduce overall processing efforts, improve claimant access to the grievance and appeal process, and reduce future litigation by reducing the administrative obstacles that often prevented the process from focusing on the actual issues presented. Providing clear reasoning why a claim was approved or disapproved, including the implementation of a remedy when a need is identified, will enhance the effectiveness of the department’s administrative remedy process.

Section 3481 is adopted.

Subsection 3481(a) is adopted to expand inmate and parolee access to the grievance and appeal process; thereby enabling the claimant to submit one or more claims to express their dissatisfaction with the department or departmental staff. The subsection establishes what an inmate or parolee may grieve, and that they may file an appeal if dissatisfied with a grievance decision. The subsection establishes an Institutional Office of Grievances at each institution, and a Regional Office of Grievances for each parole region to review claimant grievances at the first level, and a single Office of Appeals (OOA) to review claimant appeals at the second level. The subsection also establishes that the claimant will receive a written response to each claim submitted at both the grievance and appeal levels to ensure due consideration and provide transparency to the claimant.

Subsection 3481(b) is adopted to establish the authority responsible for rendering a decision on each claim within a grievance or an appeal. The staff designated to render these decisions are among the highest ranking positions within an institution, parole region, or OOA, conveying the importance given to each and every claim within a grievance. This also makes certain those responsible for ensuring compliance with all of the regulations are aware of the claims received at their institution, parole region, or OOA. Furthermore, to improve independence and reduce the potential for bias in the handling of inmate and parolee appeals of grievances, the OOA itself has been relocated from the DAI to CPRIO.

Subsection 3481(c) is adopted to establish that a claimant may choose to informally resolve a claim, as this can often provide a more timely response; however, any attempt to informally resolve a claim does not extend the timeframe for submitting a grievance or an appeal. The respective regulatory timeframe allotted to submit a grievance and appeal should enable a claimant to both attempt an informal resolution, should they so choose, and still meet the filing timeframes.

Subsection 3481(d) is adopted to establish that retaliation against claimants will not be tolerated by the department. This is necessary to ensure an open and accessible process so inmates and parolees can address issues and resolve claims. Maintaining open communication to resolve issues and concerns in a respectful manner will foster a safer and more effective environment that will ultimately enhance the department’s rehabilitative goals and will lead to a more transparent and accountable prison and community parole system.

Subsection 3481(e) is adopted to establish when an inmate or parolee's use of the department's grievance and appeal process would be inappropriate and would result in a response to their claim of "No Jurisdiction." It would be inappropriate for staff in the grievance and appeal process to attempt to render a decision on an issue that is outside their scope of authority. This subsection is necessary to help inmates and parolees understand that not all issues that affect them are caused by the department or departmental staff, and that inappropriate filings may delay their submission to the appropriate outside entity or official. This subsection also establishes that the department's grievance and appeal process does not prevent them from filing a claim with an outside entity or official.

Subsection 3481(f) is adopted to ensure that inmates and parolees have access to the grievance and appeal process. This subsection also incorporates the CDCR Form 602-1, Grievance Form. This new form replaces the old CDCR 602 Form. The advantages of the new form are several, most notably it provides clear information and instruction to the claimant regarding each claim submitted in their grievance. The old CDCR 602 process only allowed one issue per filing and the old CDCR 602 form was not designed to handle multiple claims, which the new grievance process now allows. The new form provides ample space for the claimant to submit their claim(s) on one document. The old CDCR 602 form required information to be recorded at all three levels of the process on the same document, including information provided by both the claimant and departmental staff. This led a claimant to occasionally use the wrong sections of the form to communicate their issue(s), and led to the submission of additional documents that tended at times to obscure the focus of the grievance. The CDCR 602-1 will enable the claimant and staff to focus on the contents of the grievance package.

Subsection 3481(g) is adopted to ensure that all inmates and parolees, with or without a disability, have access to and are able to participate in the grievance and appeal process. This includes any related interviews associated with the process. The subsection stresses the importance of effective communication, whether requested by a claimant or when departmental staff detect a need to assist based on a disability, lack of literacy, need for translation services or other reasonable accommodations to enable all inmates and parolees to participate in the grievance and appeal process.

Section 3482 is adopted.

Subsection 3482(a) is adopted to provide inmates and parolees with instructions regarding where to submit a grievance; thereby enabling them to participate in the grievance process. The subsection provides filing directions to both inmates and parolees to ensure the grievance is sent to the appropriate staff so that a timely, non-biased review of the grievance may occur. The subsection also directs that staff not normally involved in the day-to-day operation of an institution's housing unit collect grievances submitted via lock-boxes at least once each business day. The use of unacquainted staff and the lock-boxes are intended to provide an added level of confidentiality for inmates who want to ensure their claims are processed by the appropriate staff, as well as remove any actual or perceived retaliation. Ensuring grievances submitted via lock-boxes are collected each business day preserves a claimant's due process timeframes and facilitates timely handling of their claim. Finally, the subsection requires that additional processes and procedures may be promulgated by DAI or DAPO, so long as they are consistent with this article. There may be occasions to operationalize the grievance and appeal processes for both inmates and staff in a wide variety of correctional settings, and parolees and staff in the community.

Subsection 3482(b) is adopted to establish a reasonable deadline for filing a grievance, which has been increased from 30 to 60 calendar days. This expands inmate and parolee access to the grievance and appeal process; thereby allowing a claimant more time to express their dissatisfaction with the department or departmental staff. To consider any further expansion beyond 60 calendar days would negatively impact the timely resolution of a claim and would

inhibit the timely collection of facts for a thorough review of the claim. Despite this, the subsection does provide several exceptions to the 60 calendar day deadline, so as to not unfairly limit a claimant's access to the grievance process due to circumstances outside their control. Finally, the subsection also provides an exception for any allegation of staff misconduct to be referred to the appropriate authority within the department by the Centralized Screening Team in order to gather facts needed to prove or disprove an allegation and respond to the claimant. This is to ensure an independent and unbiased review of these claims, regardless of the date of submission, in an effort to improve departmental transparency and staff accountability. The gathering of facts may include relevant documents, information contained in electronic data systems, and interviews of the claimant or witnesses with pertinent information related to the allegations. The appropriate authority will depend upon the employee accused and their relative chain of command; thereby, if the allegation concerns an employee of DAI, the appropriate authority is likely a Warden; if DAPO, a Regional Administrator; and, if Health Care, the appropriate authority is likely the Chief Executive Officer (CEO). This is to ensure that when a claim alleges misconduct by staff, the department has the ability to collect existing evidence that helps to prove or disprove the allegation; thereby allowing the appropriate authority to make an informed decision regarding the claim and provide the claimant with notice of that decision.

Subsection 3482(c) is adopted to establish rules for a claimant to follow when submitting a CDCR Form 602-1, Grievance Form. The five criteria listed will assist Institutional and Regional OOG staff in understanding who is filing the claim, why they are filing it, and the facts and supporting documents concerning the claim. Conformance with these rules will reduce the potential for staff misunderstanding the reasoning which led to the filing of the grievance, and will result in a more efficient and effective process. The subsection provides instructions to the claimant that are intended to expedite the processing of their claim. Writing legibly will reduce ambiguity and help responding staff focus on the issue(s) presented. Providing facts and details surrounding the date and time of the claim, including any available supporting documentation and/or information related to an attempt to resolve a claim informally, will help prevent information from being lost, as the passage of time between when a claim occurs and when the claim is assigned for review can result in the loss of key facts. Such key facts may include a witness's inability to remember facts or timelines, the parole or discharge of an offender, or the reassignment or retirement of staff.

Subsection 3482(d) is adopted to establish reasonable boundaries when completing a grievance form including a prohibition against providing information known to be false; including threatening, obscene, demeaning, or abusive language, except when quoting persons involved in a claim; or, contaminating the grievance package. These prohibitions exist to protect staff from a hostile or hazardous work environment. In an effort to ensure an otherwise appropriately submitted claim is addressed, should a claimant be informed that their grievance was contaminated and will not be processed, the claimant may re-submit their grievance without contaminants, so long as it is timely.

Subsection 3482(e) is adopted to establish that all documents submitted by a claimant as part of their grievance package will be returned. This not only assures the claimant their entire grievance package was received by the Institutional or Regional OOG for consideration, but also ensures any original documents submitted by a claimant return to their possession for future needs.

Subsection 3482(f) is adopted to ensure only one set of facts are used when submitting a grievance, or an appeal when a claimant is dissatisfied with a grievance decision. By electronically scanning the grievance package submitted by the claimant, the claimant need not expend funds mailing the supporting documents to appeal a grievance decision, as the OOA will be able to access the scanned grievance package.

Section 3483 is adopted.

Subsection 3483(a) is adopted to ensure that grievances containing urgent matters are addressed appropriately and expeditiously. The timeframe for reviewing and taking action on an urgent matter mentioned in a grievance has been reduced from five business days in the old process to one business day. The referral of these urgent matters will occur whether or not the grievance is accepted or rejected. The subsection requires the Reviewing Authority over each Office of Grievances (OOG) to designate an official to assess each written grievance within one business day of receipt to determine if it contains information regarding imminent risk to personal safety, to institutional security, or of sexual misconduct, in order to ensure that the official takes immediate and appropriate action to protect the safety and security of all those involved. This one business day review requirement is separate and apart from the Reviewing Authority's requirement to issue a written response to the claimant as required in subsection 3483(g). The subsection also provides for a more expedited review of any claim alleging an erroneous Earliest Possible Release Date (ERPD) scheduled to occur within 90 days of the date received by the OOG; thereby ensuring that the claimant's ERPD is thoroughly reviewed and, if an error is identified, corrected as soon as possible.

Subsection 3483(b) is adopted to establish a reasonable timeframe for a Grievance Coordinator to complete an initial intake and forward each grievance to the Centralized Screening Team for further processing. Transferring the responsibility for screening each grievance from the Institutional or Regional OOG to an independent, centralized team will provide for a standardized and objective identification of all claims submitted through this process.

Subsection 3483(c) is adopted to establish the responsibilities of the Grievance Coordinator to provide the claimant with an acknowledgment of receipt of a grievance package within four business days. This assures the claimant that their grievance has been received and communicates pertinent information to the claimant relative to the processing of their claim. Four business days provides reasonable time to complete all necessary intake and administrative functions including the scanning of the grievance package as well as the entry of relevant information into the tracking system.

Subsection 3483(d) is adopted to establish the responsibility of the Grievance Coordinator to ensure all routine claims returned to the OOG by the Centralized Screening Team are reviewed and answered in accordance with section 3483.

Subsection 3483(e) is adopted to address when and how an interview shall occur, including the expectation for privacy to the extent possible. The interview process is an important information-gathering step, as inmates and parolees may have difficulty expressing themselves in writing; thereby necessitating the need for an interview. The subsection also establishes that staff shall document when a claimant is unable to be interviewed or refuses to be interviewed in order to maintain a record of the efforts made to resolve the claim.

Subsection 3483(f) is adopted to maintain a review process that is done objectively, without reviewer bias, and without an actual or perceived conflict of interest, by excluding individuals from participation in the grievance process when a potential conflict of interest exists. This subsection establishes direction when certain allegations require elevation to a Reviewing Authority outside an institution or parole region.

Subsection 3483(g) is adopted to establish a reasonable deadline for a Grievance Coordinator to complete a written decision and provide the claimant with a clear understanding of each possible decision reached concerning a claim. This, in turn, will assist the claimant when determining whether or not to appeal a grievance decision. Unlike the old grievance and appeal process, when claimants could be left wondering what to do next when a decision was not completed timely, the new grievance and appeal process must render a decision within the prescribed timeframes. It should be noted that the old process gave the institutions and parole

regions 60 working days to respond to a grievance, but this response time was split over two levels and included other processing steps that extended the total processing time to over 120 calendar days. The new process establishes a 60 calendar day response timeframe for the institutions and parole regions, limited to one review, which significantly shortens the overall processing of a routine claim by an institution or parole region. Further, the 60 calendar day deadline to provide a written response establishes a reasonable expectation on an institution or parole region to reach a decision on a claim. In addition to the processing steps identified in subsections 3483(a)-3483(d), all routine claims require assignment to institution or parole region staff for the gathering of facts regarding the claim. This may require interviews with the claimant, other offenders, and/or various staff, and depending on the immediate availability of these individuals, these interviews may be delayed. Once all the facts have been gathered, staff must draft a response for the Grievance Coordinator, who then may require additional fact gathering or consultation with the Reviewing Authority before rendering a decision and finalizing the grievance response.

Subsection 3483(g)(1) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Denied”. This provides the claimant with a clear understanding that a preponderance of the evidence available for review revealed that applicable rules were followed.

Subsection 3483(g)(2) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Granted”. This provides the claimant with a clear understanding that a preponderance of the evidence available for review revealed that applicable rules were not followed, which will result in an appropriate remedy determined by the Reviewing Authority.

Subsection 3483(g)(3) is adopted to describe the meaning of an Institutional or Regional OOG decision of “No Jurisdiction”. This provides the claimant with a clear understanding that their submitted claim concerns an issue outside the scope of the department’s authority; thereby precluding the department from being able to address the claim.

Subsection 3483(g)(4) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Redirected” and outline specific circumstances wherein a claim will be forwarded to the appropriate authority for processing. In many instances, the grievance and appeal process is not the best method available to effectively address a particular request or concern. The subsection details these instances including when and to whom such a claim will be forwarded.

Subsection 3483(g)(5) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Reassigned”. This provides the claimant with a clear understanding that their submitted claim will be forwarded to the appropriate authority, in this case another institution or parole region, better suited to render a decision as the majority of the facts, relevant documents or witnesses concerning the claim exist at the other location.

Subsection 3483(g)(6) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Rejected” and outlines specific circumstances wherein a claim may not be accepted for processing. These circumstances include an untimely claim, anticipatory claim, substantively duplicative claim, a claim concerning harm to another inmate or parolee or a claim concerning the regulatory framework of the grievance and appeals process. In all these circumstances, the grievance and appeal process is inappropriate. Specifically, if a claim is submitted untimely, it fails to conform to section 3482(b). If a submitted claim is anticipatory, there is no policy, decision, action, condition or omission by the department or departmental staff that the claimant is able to grieve. A claim submitted that is substantively duplicative signifies that a decision has already been rendered through the administrative remedy process; thereby allowing a claimant to grieve the same issue again would be redundant. A claim submitted on behalf of another inmate or parolee is improper, as the harmed individual has the ability and is expected to utilize the grievance and appeal process to address their concerns directly.

Subsection 3483(g)(7) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Disallowed”. This provides the claimant with a clear understanding that their grievance was found to be contaminated and will be discarded to ensure staff safety or institutional security.

Subsection 3483(g)(8) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Identified as Staff Misconduct”. This provides the claimant with a clear understanding that their submitted claim concerned an allegation of staff misconduct and has been referred to the appropriate authority to gather relevant facts. The gathering of facts may include pertinent documents, information contained in electronic data systems, and interviews of the claimant or witnesses with pertinent information related to the allegations. The appropriate authority will depend upon the employee accused and their relative chain of command; thereby, if the allegation concerns an employee of DAI, the appropriate authority is likely a Warden; if DAPO, a Regional Administrator; and, if Health Care, the appropriate authority is likely the Chief Executive Officer (CEO).

Subsection 3483(g)(9) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Pending Legal Matter”. This provides the claimant with a clear understanding that their submitted claim concerns pending litigation, legislation, or regulatory action; thereby precluding the department from being able to address the claim.

Subsection 3483(g)(10) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Time Expired”. This provides the claimant with a clear understanding that the Institutional or Regional OOG was unable to review and provide a written response concerning their submitted claim within the established timeframes; thereby exhausting their administrative remedy in accordance with section 3484(l). The old administrative remedy process allowed the department to afford themselves extensions when a decision had not yet been rendered within the established timeframes. This unreasonably delayed an inmate or parolee’s ability to progress through the process or exhaust their administrative remedies. The new grievance and appeal process instead affords a decision of “Time Expired”; thereby exhausting the claimant’s administrative remedy, allowing them to seek resolution in the Courts.

Subsection 3483(h) is adopted to establish the responsibilities of the Grievance Coordinator to ensure that the grievance decision provided to a claimant includes the pertinent information used to reject a claim as untimely. This subsection also provides an inmate or parolee instructions on their ability to appeal such decision pursuant to section 3484. Providing the dates the Grievance Coordinator used to determine an untimely submission is intended to assist the claimant with understanding how the decision was rendered and allow them the opportunity to address any actual or perceived discrepancy through the appeal process. Should it be determined through the appeal that the rejection was inappropriate, this subsection also provides direction on how the claim will be processed.

Subsection 3483(i) is adopted to establish a reasonable expectation for the written grievance decision to be sent to the claimant. Two business days provides Institutional or Regional OOG staff time to complete all necessary administrative functions including the scanning of the grievance response as well as the entry of relevant information into the tracking system prior to sending the grievance response to the claimant.

Subsection 3483(j) is adopted to establish timeframes for implementing a remedy and the process a claimant may pursue should the deadline for implementing a remedy pass. This subsection provides three distinct dates when a claimant can reasonably expect to receive a granted remedy. Generally, a granted remedy is expected to be provided by an institution or parole region within 30 calendar days. This affords a practical amount of time for the grievance decision to be communicated to the internal entity capable of effectuating the granted remedy and for that entity to facilitate its occurrence. When the granted remedy requires the disbursement of

funds, the subsection affords 90 calendar days, which provides the institution or parole region a reasonable period to work with their respective Accounting Office to facilitate approval and issuance of funds. Moreover, a one year timeframe is reserved for claims that would require budgetary authority that would generally not be available to the department until the following fiscal year. In the State's budget process, requested changes are normally only accepted from the department during a specified period occurring once each year. For granted remedies requiring such budgetary changes, the one year timeframe is needed to ensure compliance with this process. This subsection also incorporates the CDCR Form 602-3, Request to Implement Remedies Form. This new form provides a claimant the ability to submit a request for assistance in obtaining a remedy that was granted but not provided in a timely manner. The request is sent to the Remedies Compliance Coordinator within the OOA. To ensure review of all unresolved remedies is completed objectively, without reviewer bias, and without an actual or perceived conflict of interest, the Remedies Compliance Coordinator position was placed outside the institutional or regional chain of command.

Subsection 3483(k) is adopted to require that additional processes and procedures may be promulgated by DAI, DAPO, or any other departmental entity, so long as they are consistent with this article. There may be occasions to operationalize the grievance and appeal processes for both inmates and staff in a wide variety of correctional settings, and parolees and staff in the community. If DAI or DAPO write local operating procedures, they must be consistent and not conflict with this article. This article supersedes any local operating procedure where a conflict exists.

Subsection 3483(l) is adopted to establish when a claimant's administrative remedy has or has not yet been exhausted. Specifically, if a claimant receives an Institutional or Regional OOG decision of "granted", "denied", "no jurisdiction", "redirected", "reassigned", or "rejected", as described in section 3483(g), the subsection asserts that the claimant has not yet exhausted their administrative remedy. Instead, the claimant may submit an appeal of that decision as outlined in section 3484, which would allow for a second review. An Institutional or Regional OOG decision of "Disallowed" also does not constitute exhaustion, as the claimant still has an ability to resubmit the claim as outlined in section 3282(b). Conversely, if the claimant receives a decision of "Identified as Staff Misconduct", "Pending Legal Matter", or "Time Expired", as described in section 3483(g), the subsection asserts that the claimant has exhausted their administrative remedy as there is no ability for the claimant to submit an appeal of this decision in conformance with these regulations.

Section 3484 is adopted.

Subsection 3484(a) is adopted to establish the process for a claimant to appeal a grievance decision, and to ensure the appeal is sent to the appropriate staff so that an impartial review of the grievance decision may occur. The subsection provides inmates and parolees with instructions to assist them in understanding where to send an appeal when they are dissatisfied with a decision to one or more claims they previously submitted in a grievance. The subsection includes the address to send the appeal, which will enable staff to receive and process the appeal in a timely manner.

Subsection 3484(b) is adopted to establish a reasonable deadline for filing an appeal, which has been increased from 30 to 60 calendar days. This expands inmate and parolee access to the grievance and appeal process; thereby allowing a claimant who is dissatisfied with a grievance response more time to dispute a grievance response provided. To consider any further expansion beyond 60 calendar days would negatively impact the timely resolution of a claim and would inhibit the timely collection of facts for a thorough review of the claim. Despite this, the subsection does provide several exceptions to the 60 calendar day deadline, so as to not unfairly limit a claimant's access to the appeal process due to circumstances outside their control.

Subsection 3484(c) is adopted to establish procedures for a claimant to follow when submitting an appeal. The three criteria listed will assist Office of Appeals staff in understanding who is filing the appeal and why they are dissatisfied with the Institutional or Regional OOG decision. Conformance with these procedures will reduce the potential for staff misunderstanding the reasoning which led to the filing of the appeal, and will lead to a more efficient and effective process. The subsection provides instructions to the claimant that are intended to expedite the processing of their appeal. This subsection also incorporates the CDCR Form 602-2, Appeal of Grievance Form. This new form replaces the old CDCR 602 Form. The advantages of the new form are several, most notably it provides clear information and instruction to the claimant regarding each claim submitted in their grievance. The old CDCR 602 process only allowed one issue per filing and the old CDCR 602 form was not designed to handle multiple claims, which are now allowed in accordance with section 3481(a).

Subsection 3484(d) is adopted to establish reasonable boundaries when completing an appeal form including a prohibition against providing information known to be false; including threatening, obscene, demeaning, or abusive language, except when quoting persons involved in a claim; or, contaminating the grievance package. These prohibitions exist to protect staff from a hostile or hazardous work environment. In an effort to ensure an otherwise appropriately submitted claim is addressed, should a claimant be informed that their appeal was contaminated and will not be processed, the claimant may re-submit their appeal without contaminants, so long as it is timely. This subsection also provides direction regarding how an appeal that introduces a new claim will be processed; specifically, the claim will be reassigned to the Institutional or Regional OOG where a majority of the facts and circumstances that gave rise to the claim occurred. This process is intended for an inmate or parolee to appeal a grievance decision determined as a result of a thorough review of all available facts surrounding a claim; thereby, the introduction of a claim not originally presented for consideration by an Institutional or Regional OOG would undermine the process.

Subsection 3484(e) is adopted to establish that a claimant need not submit documents previously provided to the Institutional or Regional OOG for consideration by the OOA. As the grievance package will be stored electronically in accordance with section 3482(f), the OOA will have access to all documents originally submitted for grievance review. This preserves the integrity of the process by preventing the introduction of new information by the claimant to the OOA that was not introduced by the claimant to an Institutional or Regional OOG. Furthermore, this precludes the claimant from needing to expend funds to copy and/or mail the supporting documents to appeal a grievance decision.

Subsection 3484(f) is adopted to maintain the requirement that any document submitted by an inmate or parolee as part of an appeal package will be stored electronically by the department.

Section 3485 is adopted.

Subsection 3485(a) is adopted to ensure that appeals containing urgent matters are addressed appropriately and expeditiously. The timeframe for reviewing and taking action on an urgent matter mentioned in an appeal has been reduced from five business days in the old process to one business day. The referral of these urgent matters will occur whether or not the appeal is accepted or rejected. The subsection requires the Reviewing Authority for the OOA to designate an official to assess each written appeal within one business day of receipt to determine if it contains information regarding an imminent risk to personal safety, to institutional security, or of sexual misconduct, or alleges an erroneous Earliest Possible Release Date (ERPD) scheduled to occur within 90 days of the date received by the OOA. If so, the subsection requires the official to refer the matter to the appropriate Institutional or Regional OOG to be handled in accordance with section 3483(a). These provisions mirror similar provisions regarding grievances contained in subsection 3483(a).

Subsection 3485(b) is adopted to direct the OOA to grant and forward any claim that involved staff misconduct that was not previously referred pursuant to subsection 3482(b), to the Centralized Screening Team who will refer the allegation to the appropriate authority to gather relevant facts. The gathering of facts may include pertinent documents, information contained in electronic data systems, and interviews of the claimant or witnesses with pertinent information related to the allegations. The appropriate authority will depend upon the employee accused and their relative chain of command; thereby, if the allegation concerns an employee of DAI, the appropriate authority is likely a Warden; if DAPO, a Regional Administrator; and, if Health Care, the appropriate authority is likely the Chief Executive Officer (CEO).

Subsection 3485(c) is adopted to establish the responsibilities of the Appeal Coordinator to provide the claimant with an acknowledgment of receipt of an appeal package within four business days. This assures the claimant that their appeal has been received and communicates pertinent information to the claimant relative to the processing of their claim. Four business days provides reasonable time to complete all necessary intake and administrative functions including the scanning of the appeal package as well as the entry of relevant information into the tracking system.

Subsection 3485(d) is adopted to establish the responsibilities of the Appeal Coordinator to ensure all routine claims appealed to the OOA are reviewed and answered in accordance with section 3485.

Subsection 3485(e) is adopted to ensure the OOA is able to conduct a thorough review of each claim so that any decision reached on appeal is based upon all available facts surrounding the claim. This can only be achieved when the full record of each claim, including reports prepared for or by an Institutional or Regional OOG, is made available to the OOA. The subsection also establishes that any new information that was otherwise not made available to the Institutional or Regional OOG for their review will not be considered part of the record. This process is intended for an inmate or parolee to appeal a grievance decision that was reached as a result of a thorough review of all available facts surrounding the claim; therefore, including new information originally unavailable for consideration by an Institutional or Regional OOG would undermine the process.

Subsection 3485(f) is adopted to maintain a review process that is done objectively, without reviewer bias, and without an actual or perceived conflict of interest, by excluding individuals from participation in the appeal process when a potential conflict of interest exists. Since all appeals are processed through the OOA, this applies when a perceived bias is present that concerns the Associate Director of the OOA. The subsection directs the Reviewing Authority to be the Director of CPRIO for all such claims.

Subsection 3485(g) is adopted to establish a reasonable deadline for the Appeal Coordinator to review, gather appropriate facts, and complete a written decision concerning a claimant's appeal package. While the old process gave the OOA 60 working days to respond to an appeal, this new process shortens the timeframe slightly to 60 calendar days instead. To consider further expansion beyond 60 calendar days would negatively impact the timely resolution of a claim; conversely, to consider any time less than the specified 60 calendar days would jeopardize the OOA's ability to conduct a thorough review of the facts surrounding the claim. The subsection further directs the OOA, in their written response, to provide the claimant with a decision on each claim submitted. Accordingly, the subsection also provides the claimant with a clear understanding of each possible decision reached concerning a claim.

Subsection 3485(g)(1) is adopted to describe the meaning of an OOA decision of "Denied". This provides the claimant with a clear understanding that a preponderance of the evidence available for review revealed that the decision rendered by the Institutional or Regional OOG was proper.

Subsection 3485(g)(2) is adopted to describe the meaning of an OOA decision of “Granted”. This provides the claimant with a clear understanding that a preponderance of the evidence available for review revealed that the decision rendered by the Institutional or Regional OOG was not proper, which will result in an appropriate remedy determined by the Reviewing Authority.

Subsection 3485(g)(3) is adopted to describe the meaning of an OOA decision of “No Jurisdiction”. This provides the claimant with a clear understanding that their submitted claim concerns an issue outside the scope of the department’s authority; thereby precluding the department from being able to address the claim.

Subsection 3485(g)(4) is adopted to describe the meaning of an OOA decision of “Redirected” and outline the specific circumstance wherein a claim will be forwarded to the OOA Public Records Coordinator for processing.

Subsection 3485(g)(5) is adopted to describe the meaning of an OOA decision of “Reassigned”. This provides the claimant with a clear understanding that their submitted claim will be forwarded to the appropriate authority, in this case, an Institutional or Regional OOG or the Remedies Compliance Coordinator, for processing. This is intended to preclude an inmate or parolee from circumventing the administrative remedy process by bypassing the lower level of review and ensures that any request to implement a remedy is handled pursuant to section 3485(j).

Subsection 3485(g)(6) is adopted to describe the meaning of an OOA decision of “Rejected” and outlines specific circumstances wherein a claim may not be accepted for processing. These circumstances include an untimely claim, anticipatory claim, substantively duplicative claim, a claim concerning harm to another inmate or parolee or a claim concerning the regulatory framework of the grievance and appeals process. In all these circumstances, the grievance and appeal process is inappropriate. Specifically, if a claim is submitted untimely, it fails to conform to section 3482(b). If a submitted claim is anticipatory, there is no policy, decision, action, condition or omission by the department or departmental staff that the claimant is able to grieve. A claim submitted that is substantively duplicative signifies that a decision has already been rendered through the administrative remedy process; thereby allowing a claimant to appeal the same issue again would be redundant. A claim submitted on behalf of another inmate or parolee is improper, as the harmed individual has the ability and is expected to utilize the grievance and appeal process to address their concerns directly.

Subsection 3485(g)(7) is adopted to describe the meaning of an Institutional or Regional OOG decision of “Disallowed”. This provides the claimant with a clear understanding that their grievance was found to be contaminated and will be discarded to ensure staff safety or institutional security.

Subsection 3485(g)(8) is adopted to describe the meaning of an OOA decision of “Identified as Staff Misconduct”. This provides the claimant with a clear understanding that their submitted claim concerned an allegation of staff misconduct and has been referred to the appropriate authority to gather relevant facts. The gathering of facts may include pertinent documents, information contained in electronic data systems, and interviews of the claimant or witnesses with pertinent information related to the allegations. The appropriate authority will depend upon the employee accused and their relative chain of command; thereby, if the allegation concerns an employee of DAI, the appropriate authority is likely a Warden; if DAPO, a Regional Administrator; and, if Health Care, the appropriate authority is likely the Chief Executive Officer (CEO).

Subsection 3485(g)(9) is adopted to describe the meaning of an OOA decision of “Pending Legal Matter”. This provides the claimant with a clear understanding that their submitted claim concerns pending litigation, legislation, or regulatory action; thereby precluding the department from being able to address the claim.

Subsection 3485(g)(10) is adopted to describe the meaning of an OOA decision of “Time Expired”. This provides the claimant with a clear understanding that the Institutional or Regional OOG was unable to review and provide a written response concerning their submitted claim within the established timeframes; thereby exhausting their administrative remedy in accordance with section 3485(l). The old administrative remedy process allowed the department to afford themselves extensions when a decision had not yet been rendered within the established timeframes. This unreasonably delayed an inmate or parolee’s ability to progress through the process or exhaust their administrative remedies. The new grievance and appeal process instead affords a decision of “Time Expired”; thereby exhausting the claimant’s administrative remedy, allowing them to seek resolution in the Courts.

Subsection 3485(h) is adopted to establish the responsibilities of the Appeal Coordinator to ensure that the appeal decision provided to a claimant includes the pertinent information used to reject a claim as untimely. Providing the dates the Appeal Coordinator used to determine an untimely submission is intended to assist the claimant with understanding how the decision was rendered. This subsection also establishes that a claim rejected as untimely by the OOA may not be appealed by the claimant, as the OOA is the final level of review within the grievance and appeal process.

Subsection 3485(i) is adopted to establish a reasonable timeframe for the written appeal decision to be sent to the claimant. Two business days provides the OOA staff time to complete all necessary administrative functions including the scanning of the appeal response as well as the entry of relevant information into the tracking system prior to sending the appeal decision to the claimant. This subsection also directs the OOA to provide a copy of the appeal decision of any granted claim to the appropriate Institutional or Regional OOG. This effectively communicates the decision and any outstanding remedy granted by the OOA to the Institutional or Regional Reviewing Authority to ensure timely implementation pursuant to section 3485(j).

Subsection 3485(j) is adopted to establish timeframes for implementing a remedy and the process a claimant may pursue should the deadline for implementing a remedy pass. This subsection provides three distinct dates when a claimant can reasonably expect to receive a granted remedy. Generally, a granted remedy is expected to be provided by an institution or parole region within 30 calendar days. This affords a practical amount of time for the appeal decision to be communicated to the internal entity capable of effectuating the granted remedy and for that entity to facilitate its occurrence. When the granted remedy requires the disbursement of funds, this subsection affords 90 calendar days, which provides the institution or parole region a reasonable period to work with their respective Accounting Office to facilitate approval and issuance of funds. Moreover, a one year timeframe is reserved for claims that would require budgetary authority that would generally not be available to the department until the following fiscal year. In the State’s budget process, requested changes are normally only accepted from the department during a specified period occurring once each year. For granted remedies requiring such budgetary changes, the one year timeframe is needed to ensure compliance with this process. This subsection also references the CDCR Form 602-3 (01/22), Request to Implement Remedies Form. This new form provides a claimant the ability to submit a request for assistance in obtaining a remedy that was granted but not provided in a timely manner. The request is sent to the Remedies Compliance Coordinator within the OOA. To ensure review of all unresolved remedies is completed objectively, without reviewer bias, and without an actual or perceived conflict of interest, the Remedies Compliance Coordinator position was placed outside the institutional or regional chain of command.

Subsection 3485(k) is adopted to establish that additional processes and procedures may be promulgated by OOA, so long as they are consistent with this article. There may be occasions to operationalize the appeal process for both inmates and staff in a wide variety of correctional settings, and parolees and staff in the community. If OOA writes local operating procedures, they

must be consistent and not conflict with this article. This article supersedes any local operating procedure where a conflict exists.

Subsection 3485(f) is adopted to establish when a claimant has or has not yet exhausted the department's administrative remedy process. Specifically, if a claimant receives an OOA decision of "granted", "denied", "no jurisdiction", "Identified as Staff Misconduct", "Pending Legal Matter", "Time Expired", as described in section 3485(g), the subsection asserts that the claimant has exhausted their administrative remedy as the OOA is the final level of review by the department. Conversely, if the claimant receives a decision of "Redirected", or "Reassigned", as described in section 3485(g), the subsection provides that the claimant has not exhausted their administrative remedy, as the matter will be referred to the appropriate departmental process for review. Further, an OOA decision of "Rejected", as described in section 3485(g), does not constitute exhaustion since the claimant failed to utilize the administrative remedy process in conformance with these regulations. Finally, an OOA decision of "Disallowed" also does not constitute exhaustion, as the claimant still has an ability to resubmit the claim as outlined in section 3282(b).

Subsection 3491(g) is amended to revise cross-references to the department's administrative remedy process.

Subsection 3492(d) is amended to revise cross-references to the grievance and appeal regulations.

Subsection 3548(b) is amended to revise cross-references to the grievance and appeal regulations and documents incorporated by reference.

Subsection 3563(b) is amended to revise cross-references to the grievance and appeal regulations and documents incorporated by reference.

Subsection 3630(c) is amended to revise cross-references to the grievance and appeal regulations.

Section 3723 is amended to revise cross-references to the grievance and appeal regulations pursuant to the department's administrative remedies process.

Affected Forms:

Adopted CDCR 602-1 (01/22), Grievance Form. This new form replaces the repealed CDCR 602 Form to ensure that inmates and parolees have access to the grievance and appeal process. The old CDCR 602 process only allowed one issue per filing and the old CDCR 602 form was not designed to handle multiple claims, which the new grievance process now allows. The new form provides ample space for the claimant to submit their claim(s) on one document.

Adopted CDCR 602-2 (01/22), Appeal of Grievance Form. This new form replaces the repealed CDCR 602 Form, which recorded both staff and inmate information for all three levels of review. The advantages of the new form are several, most notably it provides clear information and instruction to the claimant regarding each decision made by the OOG and direction should they want to submit an appeal of the decision. The old CDCR 602 process only allowed one issue per filing and the old CDCR 602 form was not designed to handle multiple claims, which are now allowed to be submitted on a CDCR 602-1.

Adopted CDCR 602-3 (01/22), Request to Implement Remedies Form. This new form provides a claimant the ability to submit a request for assistance in obtaining a remedy that was approved but not provided in a timely manner. The request is sent to the Remedies Compliance Coordinator within the OOA.

Adopted CDCR 1872 (Rev. 03/20), Inmate Participation Agreement-Joint Venture Program (JVP). This form is amended to revise cross-reference to the newly renumbered section 3476.

Adopted CDCR 1819 (Rev. 07/18), Notification of Disapproval Mail/Packages/Publications. This form was revised in 2018, however those amendments were not adopted into Title 15 regulations. This adoption will correct that oversight.

Repealed CDCR 602, Inmate Parolee Appeal. Outdated form that no longer complies with the new grievance and appeal regulations pursuant to CCR 3480 et seq.

Repealed CDCR 602-A, Inmate/Parolee Appeal Form Attachment. This form is no longer necessary, as the new CDCR 602-1 provides ample space for the claimant to record their claim(s).

Repealed CDCR 602-G, Inmate/Parolee Group Appeal. Outdated form that no longer complies with the new grievance and appeal regulations pursuant to CCR 3480 et seq.

Repealed CDCR 22, Inmate/Parolee Request for Interview, Item or Service. This form is no longer required in the new grievance and appeal process. Inmates and parolees may correspond verbally or in writing with any staff at any time. Written communication may now be achieved with a simple note, written letter, or use of any other forms provided by the department. Furthermore, a grievance or appeal will not be rejected for failing to complete a CDCR 22.