In re: Department of Corrections and Rehabilitation

CORRECTED NOTICE OF APPROVAL OF EMERGENCY REGULATORY ACTION

Government Code Sections 11346.1 and 11349.6, and Penal Code Section 5058.3

OAL Matter Number: 2021-1208-01

OAL Matter Type: Emergency Operational Necessity (EON)

This action by the Department of Corrections and Rehabilitation (Department) is submitted to OAL as an emergency of operational necessity pursuant to Penal Code section 5058.3 and adopts a new regulatory process for addressing Department staff misconduct allegations involving incarcerated persons or parolees.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code and section 5058.3 of the Penal Code.

This emergency regulatory action is effective on 1/1/2022 and will expire on 6/13/2022. The Certificate of Compliance for this action is due no later than 6/10/2022.

Date: December 31, 2021

Dale Mentink
Assistant Chief Counsel
For: Kenneth J. Pogue,
Director

Original: Kathleen Allison, Secretary
Copy: Josh Jugum
December 31, 2021

TO: Secretary of State

FROM: Dale Mentink, Assistant Chief Counsel (916-323-4237)

RE: OAL file no. 2021-1208-01EON; Department of Corrections and Rehabilitation

Date filed with the Secretary of State: 12-28-2021

PLEASE RETAIN THIS COMMUNICATION WITH YOUR COPY OF THE ABOVE-ENTITLED REGULATIONS.

On December 28, 2021, this regulatory action was filed with the Secretary of State with a typographical error on the STD Form 400. Instead of adopting section 3486, the action adopted section 3486.01 in Title 15 of the California Code of Regulations.

A hand-corrected copy of the STD Form 400 and of the attached regulatory text showing the correct numbering of adopted section 3486.01 in this matter is attached to this Memorandum. Please place and keep this Memorandum and attached STD Form 400 and regulatory text with OAL file number 2021-1208-01EON, which was filed on December 28, 2021. Please contact me if you have any questions.

Attachment: STD Form 400 and regulatory text for OAL file no. 2021-1208-01EON

cc: Josh Jugum, Department of Corrections and Rehabilitation
    Ruth Lafler, Thomson-Reuters California Code of Regulations
STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS FILE
STD. 400 (REV. 10/2019)

For use by Office of Administrative Law (OAL) only

ENDORSED - FILED
in the office of the Secretary of State of the State of California

DEC 28, 2021
3:19 p.m.

OFFICE OF ADMIN. LAW
2021 DEC 8 A.M. 20

EMERGENCY

Notice of Proposed Rulemaking

California Department of Corrections and Rehabilitation

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE

2. TITLE(S)

3. NOTICE TYPE

4. AGENCY CONTACT PERSON

5. TELEPHONE NUMBER

6. FAX NUMBER (Optional)

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLES AND SECTIONS (Including title 25, if toxics related)

3. TYPE OF FILING

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §44 and Gov. Code §11347)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11343.1(d), Cal. Code Regs., title 1, §100)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY ANOTHER AGENCY OR ENTITY

7. CONTACT PERSON

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

9. SIGNATURE OF AGENCY HEAD OR DESIGNEE

10. TYPED NAME AND TITLE OF SIGNATORY

JENNIFER BARRETT, Undersecretary, Administration
TEXT OF PROPOSED REGULATIONS

In the following text, underline indicates newly adopted text.

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

Subchapter 5.1. Inmate and Parolee Programs

Article 1.5 Staff Misconduct Complaints

3486.01 Allegations of Staff Misconduct Toward an Incarcerated Person or Parolee.

(a) Right to submit complaint alleging staff misconduct

(1) Any person can submit a complaint of staff misconduct when they believe departmental staff have engaged in behavior that resulted in a violation of law, policy, regulation, or procedure, or an ethical or professional standard.

(A) Inmates shall submit CDCR Form 602-1, Grievance, (Rev. 01/22), which is incorporated by reference, pursuant to section 3482(a)(1). Parolees shall submit CDCR Form 602-1 pursuant to section 3482(a)(2).

(B) CDCR Form 602-HC, Health Care Grievance, (Rev. 10/18), which is incorporated by reference, shall be submitted pursuant to section 3999.226(a)

(C) Inmates shall submit CDCR Form 1824, Reasonable Accommodation Request, (Rev. 09/17), which is incorporated by reference, pursuant to section 3482(a)(1). Parolees shall submit CDCR Form 1824 pursuant to section 3482(a)(2).

(D) Citizens complaints shall be submitted in writing pursuant to section 3417.

(2) Staff shall not retaliate against a complainant or witness for submitting a complaint or reporting staff misconduct.

(3) The department shall ensure all complaints of staff misconduct are properly documented, objectively reviewed, thoroughly investigated, and discipline imposed or referred for criminal prosecution, when warranted, as provided in this Article, as well as Article 2 of Subchapter 5.

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

(1) “Allegation Decision Index” refers to the index, incorporated by reference in this Article, which identifies the criteria utilized by the Centralized Screening Team to determine whether a complaint should be referred to the Office of Internal Affairs for investigation.

(2) “Allegation Inquiry” refers to the process of gathering relevant facts and evidence by a Local Designated Investigator (LDI) concerning a complaint that involves an allegation of staff misconduct.

(3) “Allegation Inquiry Report” refers to the confidential report prepared by an LDI following an Allegation Inquiry.

(4) “Centralized Screening Team” (CST) refers to the entity that reviews documentation to determine if the documentation contains a Routine Issue, alleges misconduct toward an incarcerated person or parolee, or alleges misconduct not involving an incarcerated person or parolee.
(5) “Clarification Interview” refers to an interview conducted by CST staff when clarification is required to make a screening decision.
(6) “Complaint” refers to any documentation or verbal statements received by the Department from any source that alleges Staff Misconduct.
(7) “Complainant” refers to the person making a complaint against departmental staff.
(8) “Investigation Report” refers to the confidential report prepared by an OIA investigator following an Investigation.
(9) “Department” and “Departmental Staff” refer exclusively to all CDCR employees, contractors, and volunteers.
(10) “Designated Case” refers to a case assigned to an Employment Advocacy and Prosecution Team (EAPT), Vertical Advocate (VA).
(11) “Employment Advocacy and Prosecution Team” (EAPT) refers to the entity in the Office of Legal Affairs responsible for providing legal counsel and representation during the employee investigation, discipline, and appeal process.
(12) “Hiring Authority” has the same meaning in this Article as in subsection 3392(a)(11).
(13) “Investigation” refers to the gathering of facts and evidence by an OIA Investigator concerning an allegation of Staff Misconduct.
(14) “Locally Designated Investigator” (LDI) refers to departmental staff trained by OIA to collect evidence and conduct Allegation Inquires.
(15) “Office of Internal Affairs” (OIA) refers to the entity with authority to investigate allegations of employee misconduct.
(16) “OIA Investigator” refers to a peace officer within the OIA assigned to conduct a confidential investigation.
(17) “Routine Issue” refers to any documentation received by CST that does not contain an allegation of Staff Misconduct.
(18) “Staff Misconduct” refers to behavior that results in a violation of law, regulation, policy, or procedure, or actions contrary to an ethical or professional standard.
(19) “Third Party” refers to a person or persons not directly involved in the incident or interaction that resulted in the allegation of staff misconduct.
(20) “Vertical Advocate” (VA) refers to an EAPT attorney who represents the department in designated cases during investigations, the employee discipline process, administrative hearings, and appellate proceedings.

(c) Implementation Dates - The provisions of this Article shall apply to staff misconduct complaints received by the department as follows:
(1) CDCR Form 602-1, Grievance, fully implemented at the following facilities on May 31, 2022:
(A) Richard J Donovan Correctional Facility
(B) California State Prison, Los Angeles County
(C) California State Prison, Corcoran
(D) Substance Abuse Treatment Facility
(E) Kern Valley State Prison
(F) California Institution for Women
(2) CDCR Form 602-1 fully implemented at the following facilities on September 30, 2022:
(A) California Correctional Institution
(B) California Health Care Facility
(C) Correctional Training Facility
(D) California Medical Facility
(E) California State Prison, Sacramento
(F) Mule Creek State Prison
(3) CDCR Form 602-1 fully implemented at the following facilities on November 30, 2022:
(A) Calipatria State Prison
(B) Centinela State Prison
(C) California Institution for Men
(D) California Rehabilitation Center
(E) Chuckawalla Valley State Prison
(F) Ironwood State Prison
(4) CDCR Form 602-1 fully implemented at the following facilities on January 31, 2023:
(A) North Kern State Prison
(B) Wasco State Prison
(C) Avenal State Prison
(D) California City Correctional Facility
(E) Central California Women’s Facility
(F) California State Prison, Solano
(G) Salinas Valley State Prison
(H) Pleasant Valley State Prison
(I) Pelican Bay State Prison
(J) San Quentin State Prison
(K) California Correctional Center
(L) High Desert State Prison
(M) Valley State Prison
(N) Folsom State Prison
(O) California Men’s Colony
(P) Sierra Conservation Center
(Q) Community Beds
(R) Division of Adult Parole Operations
(5) CDCR Form 602-HC, Health Care Grievance, on March 31, 2023;
(6) CDCR Form 1824, Reasonable Accommodation Request, on April 30, 2023;
(7) All other complaints (e.g., third party complaints, citizen complaints, staff, ombudsman, advocacy letters and any related interviews, etc.) received either electronically, telephonically, or in writing on June 30, 2023.


3486.1 Centralized Screening
(a) If departmental staff receives a written complaint from a complainant alleging staff misconduct toward an incarcerated person or parolee, the department staff receiving the complaint shall refer the complaint to CST and notify their supervisor to determine if it contains information constituting an imminent risk to personal safety, institutional security, or involves sexual abuse or acts of sexual misconduct as defined by the federal Prison
Rape Elimination Act (PREA) and the California Sexual Abuse in Detention Elimination Act.

(b) For allegations of staff misconduct not involving an incarcerated person or parolee, the hiring authority shall not refer the allegation to CST, but may initiate an Allegation Inquiry, impose corrective action, or request an investigation or approval of direct action, pursuant to the department’s applicable Internal Affairs investigations policies and procedures.

(c) Complaints of misconduct not involving departmental staff.
   (1) If a hiring authority receives a complaint of misconduct, that does not involve departmental staff, the hiring authority shall advise the complainant that the subject of the complaint is not employed by CDCR and is outside the Department’s jurisdiction.
   (2) For all allegations of misconduct, excluding sexual abuse or sexual misconduct allegations as defined in PREA, the complainant shall be advised to file a complaint directly with the appropriate outside entity.
   (3) For allegations of sexual abuse or sexual misconduct as defined by PREA, the hiring authority receiving the complaint shall notify the appropriate outside entity of the allegations as required by law, and inform the complainant of this referral.

(d) Verbal Complaints
   (1) Department staff shall document in writing any verbal complaints received that involve an allegation that an incarcerated person or parolee was subject to unnecessary or excessive use of force, staff-on-offender sexual misconduct, or sexual harassment. The departmental staff receiving the complaint shall refer the complaint to CST, and immediately forward the complaint to their hiring authority.
   (2) For all other verbal complaints, departmental staff shall provide the complainant with information on how to submit their complaint in writing.
   (3) For all verbal complaints not documented in writing by the complainant, the hiring authority retains the authority to resolve these matters through the employee discipline process if warranted.

(e) The Centralized Screening Team (CST) shall review all complaints received and make a screening decision of whether it contains a routine issue, allegation(s) of staff misconduct toward an incarcerated person or parolee, or allegation(s) of staff misconduct not related to an incarcerated person or parolee.

(f) Assigned CST staff shall review each document received to determine if it contains information constituting an imminent risk to personal safety, institutional security, or involves sexual abuse or acts of sexual misconduct as defined by the federal Prison Rape Elimination Act (PREA) and the California Sexual Abuse in Detention Elimination Act. In those instances, CST shall immediately notify the hiring authority via the Business Information System (BIS), of the affected institution or program for appropriate action.

(g) CST shall conduct a clarification interview if required to make a screening decision.

(h) When an allegation of staff misconduct toward an incarcerated person or parolee is identified by CST, CST shall utilize the Allegation Decision Index (01/22), which is
incorporated by reference, to determine whether the complaint will be referred to OIA for investigation or to the hiring authority for an Allegation Inquiry.

(1) If the misconduct described in the allegation is listed on the Allegation Decision Index, CST shall refer the allegation to OIA for investigation.

(2) If the misconduct described in the allegation is not listed on the Allegation Decision Index, CST will refer the allegation to the hiring authority for an Allegation Inquiry, unless after review CST determines the serious nature of the allegation or complexity of the investigation warrants assignment to OIA.

(i) CST’s screening decision shall be documented in the department’s Business Information System (BIS).

(j) The hiring authority shall be notified of CST’s screening decision via BIS.

(k) The complainant shall be notified in writing that their complaint has been received by CST within thirty (30) business days of receipt.


Section 3486.2. Staff Misconduct Investigations and Allegation Inquiries Involving Misconduct Toward Incarcerated Persons or Parolees

(a) OIA Investigation Processing.

(1) Upon receipt of a complaint from CST, OIA staff shall analyze the complaint and identify any initial information or documentation that needs to be obtained.

(2) If additional information or documentation is needed, OIA Staff shall request and obtain the information or documentation from departmental staff.

(3) OIA staff shall then assemble the documents and recordings into an investigation file.

(4) An OIA manager shall review the investigation file and assign the investigation using the Investigation Assignment Index, (01/22), which is incorporated by reference.

(5) An OIA manager shall make the investigation assignment decision in consultation with EAPT for designated cases.

(b) OIA Staff Misconduct Investigations.

(1) The department shall ensure that each OIA Investigation is conducted pursuant to existing laws, regulations, and CDCR policies and procedures.

(2) OIA investigators shall conduct an investigation for all allegations of staff misconduct toward incarcerated persons or parolees listed in the Allegation Decision Index and any other allegation referred to OIA by CST.

(3) Completion of Investigations.

(A) OIA investigators shall conduct thorough investigations, and ensure all relevant evidence is gathered and reviewed, and necessary interviews are conducted.
(B) At the conclusion of an investigation, the assigned OIA investigator shall prepare a confidential draft investigation report which summarizes the facts and evidence gathered during the investigation.

(4) Investigation Report Review.

(A) An OIA manager shall review the draft Investigation Report, and supporting exhibits and recordings, to determine whether the investigation is sufficient, complete, and unbiased.

(B) For designated cases, the VA shall review the draft Investigation Report and all supporting exhibits and recordings, and provide feedback to OIA.

(C) After the Investigation Report is finalized, the confidential final Investigation Report and all supporting exhibits and recordings, shall be provided to the VA for designated cases, and the hiring authority.

(D) The hiring authority shall receive the final Investigation Report, exhibits, and recordings, and if the investigation is sufficient, make a determination in accordance with section 3486.3, Staff Misconduct Determination.

(E) If the hiring authority finds the investigation insufficient to make a determination in accordance with section 3486.3, they shall request additional investigation.

(c) Allegation Inquiry Process.

(1) When CST refers an allegation of staff misconduct to the hiring authority, the hiring authority shall have the Allegation Inquiry conducted by an LDI.

(2) The LDI shall be at least one rank higher than the highest-ranking subject allegedly involved in the misconduct.

(3) Completion of Allegation Inquiries.

(A) LDIs shall conduct thorough allegation inquiries, and ensure all relevant evidence is gathered and reviewed, and necessary interviews are conducted. The LDI shall complete the Allegation Inquiry except when one of the following situations occurs:

1. If the LDI discovers evidence of staff misconduct listed in the Allegation Decision Index, the LDI shall cease further inquiry, document the evidence in an Allegation Inquiry Report which summarizes the facts and evidence gathered during the inquiry, and refer the Allegation Inquiry to OIA for a complete investigation with notification to the hiring authority.

2. If the LDI finds evidence of staff misconduct not listed in the Allegation Decision Index that the LDI believes may result in adverse action, the LDI shall cease further inquiry, document the evidence in an Allegation Inquiry Report, and refer the Allegation Inquiry to the hiring authority for review. If the hiring authority agrees, the Allegation Inquiry shall be referred to OIA for investigation. If the hiring authority does not believe adverse action may result, the matter shall be returned to the LDI for completion of the Allegation Inquiry.

(B) Upon completion of the Allegation Inquiry, the LDI shall author a confidential draft Allegation Inquiry Report with all supporting exhibits, and provide a copy to the hiring authority for notification, and an OIA manager for review and approval.

(4) Allegation Inquiry Report Review.

(A) An OIA manager shall review the draft Allegation Inquiry Report, and supporting exhibits, to determine whether the Allegation Inquiry is sufficient, complete, and unbiased.

(B) Once approved by an OIA manager, the Allegation Inquiry report shall be provided to the hiring authority.
(C) If the hiring authority reviews the approved Allegation Inquiry Report, determines the Allegation Inquiry is sufficient, complete and unbiased, and determines adverse action will not be imposed, the hiring authority shall make a determination in accordance with section 3486.3, Staff Misconduct Determination.
(D) If the hiring authority determines that the Allegation Inquiry Report contains a preponderance of evidence to sustain the allegations and impose adverse action, the hiring authority shall request approval from OIA for direct adverse action.
(E) If the hiring authority determines the Allegation Inquiry resulted in evidence that misconduct likely to result in adverse action occurred but preponderance of evidence does not exist, the hiring authority shall request investigation by OIA.
(F) If the hiring authority requests OIA investigation or approval for direct adverse action, OIA in consultation with EAPT will determine whether an investigation should be conducted, or whether there is a preponderance of evidence for approval of direct adverse action.


3486.3. Staff Misconduct Determination

(a) Upon receipt and review of a confidential Investigation Report as described in section 3486.2(b)(4)(D), Allegation Inquiry Report as described in section 3486.2(c)(4)(C), or approval from OIA for direct adverse action, the hiring authority shall render a determination on each allegation and each subject identified in the allegation as follows:
(1) NOT SUSTAINED: The investigation or inquiry failed to disclose a preponderance of evidence to prove or disprove the allegation made in the complaint.
(2) UNFOUNDED: The investigation or inquiry conclusively proved that the act(s) alleged did not occur; or the act(s) may have, or in fact, occurred but the individual employee(s) named in the complaint(s) was not involved.
(3) EXONERATED: The facts, which provided the basis for the complaint or allegation, did in fact occur; however, the investigation or inquiry revealed that the actions were justified, lawful, and proper.
(4) SUSTAINED: The investigation or inquiry disclosed a preponderance of evidence to prove the allegation(s) made in the complaint.
(5) NO FINDING: The investigation revealed that another agency was involved and the complainant has been referred to that agency or the complainant is no longer available for clarification of facts/issues.

(b) When an allegation of staff misconduct is sustained, the hiring authority shall make a determination regarding corrective or adverse action in accordance with section 3392, Employee Discipline.

(c) The hiring authority shall notify the complainant, in writing, of the finding(s) of the original complaint within thirty (30) days of the determination of the disposition of the complaint.
(1) The notification of the findings regarding the staff misconduct complaint shall be limited to whether the original complaint is sustained, not sustained, exonerated, or unfounded.

(2) At no time shall any information related to any personnel action be conveyed to the complainant in the matter.

(d) The Business Information System shall be updated to reflect all determinations made regarding the allegation of staff misconduct.

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<tr>
<th>Allegation</th>
<th>Decision</th>
<th>Index</th>
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<tr>
<td>Allegations of Staff Misconduct Toward an Incarcerated Person or Parolee</td>
<td>Use of Force</td>
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<tr>
<td>(1) Failure to report own or witnessed use of force</td>
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<td>(2) Excessive or unnecessary use of force</td>
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<td>(3) Improper use of restraints</td>
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<td>(4) Misuse, non-use, or careless handling of duty weapon(s)</td>
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<td>(5) Inappropriate display of duty weapons</td>
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<tr>
<td>Staff Sexual Misconduct</td>
<td>Integrity</td>
<td>Other Misconduct</td>
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<tr>
<td>(1) Sexual misconduct with an incarcerated person or parolee</td>
<td>Other Misconduct</td>
<td>(1) Dangerous or negligent or reckless driving or operating machinery on duty</td>
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<tr>
<td>(2) Sexual violence toward an incarcerated person or parolee</td>
<td>Other Misconduct</td>
<td>(2) Endangering self, fellow employees, incarcerated persons, paroles or the public by violation of Departmental training, laws, policies, directives or ordinances</td>
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<tr>
<td>(3) Sexual harassment toward an incarcerated person or parolee</td>
<td>Other Misconduct</td>
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<td>Dishonesty</td>
<td>Other Misconduct</td>
<td>(4) Threats to, intimidation of or assault of an incarcerated person or parolee</td>
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<tr>
<td>(1) Destruction, fabrication, falsification, alteration or planting of evidence, including failure to comply with body worn camera activation requirements</td>
<td>Other Misconduct</td>
<td>(5) Over-familiarity with an incarcerated person or parolee pursuant to section 3400</td>
</tr>
<tr>
<td>(2) Perjury, material misrepresentation, falsification, or intentionally misleading statements in official law enforcement reports or records; including rules violation reports.</td>
<td>Other Misconduct</td>
<td>(6) Use of position to solicit gratuities or favors from an incarcerated person or parolee</td>
</tr>
<tr>
<td><strong>NOTE:</strong> Allegations of perjury, material misrepresentation, falsification, or intentionally misleading statements involving a Rules Violation Report shall be routed to OIA regardless of the status of the disciplinary process. However, the investigation will not begin until the disciplinary process is complete or 60 days after the initial copy of the rule violation report is issued to the incarcerated person, whichever occurs first.</td>
<td>Other Misconduct</td>
<td>(7) Bringing contraband into a security area for an incarcerated person</td>
</tr>
</tbody>
</table>
Only allegations of staff misconduct toward an incarcerated person or parolee will be handled via the Office of Internal Affairs, Allegation Investigation Unit (AIU). All investigations involving allegations of staff misconduct not directed toward incarcerated persons or parolees shall be processed via the CDCR 989 Request for Investigation process.

AIU is comprised of Correctional Sergeants, Correctional Lieutenants, and Special Agents, all authorized to investigate allegations of staff misconduct against incarcerated persons and parolees.

Investigation Assignments are made on a case-by-case basis by an AIU Manager.

The AIU Manager shall assign an investigation to an investigator in accordance with the Investigation Assignment Index (IAI) unless other case factors exist to warrant increasing the level of the investigator or justify reducing the level of investigator. Case factors the AIU Manager shall consider include:

- Number of incarcerated persons, parolees, and/or staff involved
- Number of allegations raised in a single incident
- Criminal misconduct versus administrative misconduct
- Availability of audio and/or video evidence
- Other evidence immediately available that supports or refutes allegations
- Criminal statutes of limitations
- Disciplinary statutes of limitations
- Past allegations of same/similar misconduct against the staff member (excluding determinations of exonerated and unfounded)
- Length of time since alleged misconduct occurred
  - Allegations reported more than 1 year after the alleged misconduct occurred can be assigned to a lower level investigator than noted on the index.

A Special Agent shall be assigned to an investigation when:

- Exigent circumstances exist;
- The misconduct resulted in great bodily injury or death of an incarcerated person or parolee;
- Evidence of felony criminal conduct is present; or
- The allegation involves an appointed non-civil service staff member

The AIU Manager shall document in the AIU database their reason(s) for assigning an investigation to a lower level investigator than identified on the IAI.

The AIU Manager has the authority during the course of an investigation to reassign or co-assign any case to a higher level investigator when deemed necessary based on the case factors or complexity of the investigation.

Allegations of staff misconduct related to staff use of force, staff sexual misconduct, staff sexual harassment, and on-duty weapons related allegations shall not be assigned below the level of Correctional Lieutenant unless the allegation is reported more than 1 year after the date of the alleged incident.
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<tr>
<td>(1) Failure to report own or witnessed use of force</td>
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<td><strong>Dishonesty</strong></td>
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<td>Lieutenant</td>
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<td>(2) Perjury, material misrepresentation, falsification, or intentionally misleading statements in official law enforcement reports or records; including rules violation reports once the disciplinary process is complete or 60 days after the initial copy of the rule violation report is issued to the incarcerated person, whichever occurs first.</td>
<td>Lieutenant</td>
</tr>
<tr>
<td>(3) Making false or intentionally misleading statements to a supervisor</td>
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<td><strong>Discrimination/Harassment</strong></td>
<td></td>
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<tr>
<td>(1) Making insults to an incarcerated person or parolee pertaining to race, color, national origin, ancestry, religion, marital status, age, disability, medical or mental health condition, pregnancy, veteran status, or political affiliation</td>
<td>Sergeant</td>
</tr>
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<td>(2) Harassing an incarcerated person or parolee based upon race, color, national origin, ancestry, religion, marital status, age, disability, medical or mental health condition, pregnancy, veteran status, or political affiliation</td>
<td>Sergeant</td>
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<td>(3) Discriminating against an incarcerated person or parolee pertaining to race, color, national origin, ancestry, religion, marital status, age, disability, medical or mental health condition, pregnancy, veteran status, or political affiliation</td>
<td>Sergeant</td>
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<td>(4) Repeated misuse of specified pronouns or honorifics</td>
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<tr>
<td><strong>Retaliation</strong></td>
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<td>(1) Retaliation against an incarcerated person or parolee due to reporting staff misconduct</td>
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<td>(2) Retaliation against an incarcerated person or parolee due to use of the Administrative Remedies (Grievance and Appeal) process</td>
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<tr>
<td>(4) Retaliation against an incarcerated person or parolee due to a request for a disability accommodation</td>
<td>Sergeant</td>
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</table>
## Code of Silence
1. Any involvement in a coordinated effort with other employees, incarcerated persons or parolees to prohibit the reporting of misconduct
   - Lieutenant
2. Any independent act(s) which prevents or interferes with the reporting of misconduct
   - Lieutenant
3. Intimidating, dissuading, or threatening witnesses
   - Lieutenant
4. Failure to report misconduct by another employee
   - Lieutenant

## Integrity
1. Creating an opportunity or motive for an incarcerated person or parolee to harm an incarcerated person or parolee, staff, or self (i.e. suicide)
   - Lieutenant
2. Failure to intervene or attempt to stop misconduct by another employee.
   - Sergeant
3. Actions or conduct causing significant risk to institutional or public safety/security
   - Lieutenant
4. Improper access, disclosure or transmittal of confidential information
   - Lieutenant

## Other Misconduct
1. Dangerous or negligent or reckless driving or operating machinery on duty
   - Sergeant
2. Endangering self, fellow employees, incarcerated persons, parolees or the public by violation of Departmental training, laws, policies, directives or ordinances
   - Sergeant
3. Misconduct resulting in significant injury or death of an incarcerated person or parolee
   - Special Agent
4. Threats to, intimidation of or assault of an incarcerated person or parolee
   - Sergeant
5. Over-familiarity with an incarcerated person or parolee pursuant to section 3400
   - Sergeant
6. Use of position to solicit gratuities or favors from an incarcerated person or parolee
   - Sergeant
7. Bringing contraband into a security area for an incarcerated person
   - Lieutenant
### Reasonable Accommodation Request

**CDCR 1824 (Rev. 09/17)**

**INSTITUTION** (Staff use only) | **LOG NUMBER** (Staff Use Only) | **DATE RECEIVED BY STAFF:**
---|---|---

**Instructions:**
- You may use this form if you have a physical or mental disability or if you believe you have a physical or mental disability.
- You may use this form to request a specific reasonable accommodation which, if approved, will enable you to access and/or participate in a program, service or activity. You may also use this form to submit an allegation of disability-based discrimination.
- Submit this form to the Custody Appeals Office.
- The 1824 process is intended for an individual’s accommodation request. Each individual’s request requires a case-by-case review.
- The CDCR 1824 is a request process, not an appeal process. All CDCR 1824 requests will receive a response.
- If you have received an 1824 decision that you disagree with, you may submit an appeal (CDCR 602, or CDCR 602-HC if you are disagreeing with a medical diagnosis/treatment decision).

**What Can’t You Do / What is the Problem?**

____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

**Why Can’t You Do It?**

_______________________________________________________________________________
_______________________________________________________________________________
_______________________________________________________________________________

**What Do You Need?**

______________________________________________________________________________________________
_______________________________________________________________________________
_______________________________________________________________________________
_______________________________________________________________________________
_______________________________________________________________________________
_______________________________________________________________________________

---

(Use the back of this form if more space is needed)

**Do You Have Documents That Describe Your Disability?**

Yes [ ] No [ ] Not Sure [ ]

List and attach documents, if available:

____________________________________________________________________________________
____________________________________________________________________________________

I understand that staff have a right to interview or examine me, and my failure to cooperate may cause this request to be disapproved.

_____________________________          ____________________          ______________________________________
**INMATE’S SIGNATURE**                    **DATE SIGNED**

Assistance in completing this form was provided by:

_________________________          _________________          _________________
**Last Name**                      **First Name**           **Signature**
If you think you have a medical, mental health or dental emergency, notify staff immediately. If additional space is needed, use Section A of the CDCR 602 HC A Health Care Grievance Attachment. Only one CDCR 602 HC A will be accepted. You must submit this health care grievance to the Health Care Grievance Office for processing. Refer to California Code of Regulations (CCR), Title 15, Chapter 2, Subchapter 2, Article 5 for further guidance with the health care grievance process.

Do not exceed more than one row of text per line. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

<table>
<thead>
<tr>
<th>Name (Last, First, MI):</th>
<th>CDCR #:</th>
<th>Unit/Cell #:</th>
</tr>
</thead>
</table>

**SECTION A:** Explain the applied health care policy, decision, action, condition, or omission that has had a material adverse effect upon your health or welfare for which you seek administrative remedy:

---

**SECTION B:** HEALTH CARE GRIEVANCE REVIEW INSTITUTIONAL LEVEL: Staff Use Only

Is a CDCR 602 HC A attached? [ ] Yes [ ] No

This grievance has been:

[ ] Rejected (See attached letter for instruction): Date: __________ Date: __________

[ ] Withdrawn (see section E)

[ ] Accepted Assigned To: __________________________ Title: __________________________ Date Assigned: __________ Date Due: __________

Interview Conducted? [ ] Yes [ ] No Date of Interview: __________ Interview Location: __________

Interviewer Name and Title (print): __________________________ Signature: __________________________ Date: __________

Reviewing Authority __________________________ Signature: __________________________ Date: __________

Disposition: See attached letter [ ] Intervention [ ] No Intervention

HCGO Use Only: Date closed and mailed/delivered to grievant:

**TABE score** ≤ 4.0 **DPH** **DPV** **LD** **DPS** **DNH** **DDP** **Not Applicable**

2. **Accommodation:**
   - Additional time
   - Equipment
   - SLI
   - Louder
   - Slower
   - Basic
   - Transcribe
   - Other*

3. **Effective Communication:**
   - Patient asked questions
   - Patient summed information
   - Please check one:
     - Not reached
     - Reached
   *See chrono/notes

4. **Comments:** ________________

S T A F F   U S E   O N L Y
Health Care Grievance Appeal. If you are dissatisfied with the Institutional Level Grievance Response, explain the reason below (if more space is needed, use Section C of the CDCR 602 HC A), and submit the entire health care grievance package by mail for Headquarters’ (HQ) Level health care grievance appeal review. Mail to: Health Care Correspondence and Appeals Branch, P.O. Box 588500, Elk Grove, CA 95758.

Date Submitted: Grievant Signature:

SECTION D: HEALTH CARE GRIEVANCE APPEAL REVIEW HQ LEVEL: Staff Use Only

Is a CDCR 602 HC A attached? ☐ Yes ☐ No

This grievance has been:
☐ Rejected (See attached letter for instruction): Date: ____________ Date: ____________
☐ Withdrawn (see section E) ☐ Accepted
☐ Amendment Date:

Interview Conducted? ☐ Yes ☐ No Date of Interview: ____________ Interview Location: ____________

Interviewer Name and Title (print): ___________________ Signature: ___________________ Date: ____________

Disposition: See attached letter ☐ Intervention ☐ No Intervention

This decision exhausts your administrative remedies.

HQ Use Only: Date closed and mailed/delivered to grievant:

SECTION E: Grievant requests to WITHDRAW health care grievance: I request that this health care grievance be withdrawn from further review. Reason:

Date Submitted: Grievant Signature:

Staff Name and Title (Print): ___________________ Signature: ___________________ Date: ____________

S T A F F   U S E   O N L Y

Distribution: Original - Returned to grievant after completed; Scanned Copy - Health Care Appeals and Risk Tracking System 2.0 (Do not place in central file or health record)

Unauthorized collection, creation, use, disclosure, modification or destruction of personally identifiable information and/or protected health information may subject individuals to civil liability under applicable federal and state laws.
In order for the Department to understand your complaint, please answer all of the following questions:

- What is the nature of your complaint?
- When and where did the complaint occur?
- Who was involved?
- Which specific people can support your complaint?
- Did you try to informally resolve the complaint?
- What rule or policy are you relying on to make your complaint?
- What specific action would resolve your complaint?

NOTE: Attach documents that help support your complaint (identify the documents if you do not have them).