



Department of Corrections and Rehabilitation
NOTICE OF CHANGE TO REGULATIONS

Sections: 3375 and 3375.1	NCR Number: 23-03	Publication Date: April 28, 2023
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INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendment of Sections 3375 and 3375.1 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding Level IV 180/270 Design Housing Facility.

PUBLIC COMMENT PERIOD

The public comment period will close on June 13, 2023. 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. All written comments must be received or postmarked no later than June 13, 2023.

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held on **June 15, 2023, from 10:00 a.m. to 11:00 a.m. in the Sequoia Conference Room 150, located at 1515 S Street, Sacramento, CA 95811.** 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. Written comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

POSTING

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each department facility and field office not later than five calendar days after receipt. Also, 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 R. Ruiz, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2244, or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to C. Alcazar, Division of Adult Institutions, at (916) 322-1164.

Original signed by:

TAMMY FOSS
Undersecretary, Operations
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 3375 and 3375.1 of Title 15, Division 3, Chapter 1, regarding Level IV 180/270 Design Housing Facility.

PUBLIC COMMENT PERIOD

The public comment period begins **April 28, 2023** and closes on **June 13, 2023**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rmb@cdr.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.

CONTACT PERSONS

<u>Primary Contact</u>	<u>Back-Up</u>	<u>Program Contact</u>
R. Ruiz Telephone: (916) 455-2244 Regulation and Policy Management Branch P.O. Box 942883 Sacramento, CA 94283-0001	Y. Sun Telephone: (916) 445-2269 Regulation and Policy Management Branch P.O. Box 942883 Sacramento, CA 94283-0001	C. Alcazar Telephone: (916) 322-1164 Division of Adult Institutions P.O. Box 942883 Sacramento, CA 94283-0001

PUBLIC HEARING

Date and Time: **June 15, 2023 – 10:00 a.m. to 11:00 a.m.**
Place: Department of Corrections and Rehabilitation
Sequoia Conference Room 150
1515 S Street – North Building
Sacramento, CA 95811

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 operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend sections 3375 and 3375.1 of the California Code of Regulations (CCR) Title 15, for determining placement of an inmate in a Level IV 180-design or 270-design facility. The objective of this regulatory action is to better serve the inmate population by providing flexible Level IV housing options to accommodate the interests and behavioral needs of the inmate while simultaneously reducing the impact and strain on departmental resources.

Upon arrival to CDCR, inmates are processed through a Reception Center (RC), in order to complete the classification process. The classification process is conducted by CDCR counseling staff and includes a thorough review of the inmate's case factors. As a result, the inmate is assigned a Placement Score pursuant to section 3375.3. This placement score determines housing at one of four security levels as established in subsections 3375.1(a)(1) through 3375.1(a)(4). Lower placement scores correspond with lower security controls, and higher placement scores correspond with higher security controls. Level I housing is designated for inmates who require the least secure housing and supervision. Levels II and III are designed for inmates who require more secure housing and supervision, and Level IV is designated for inmates who require the most secure housing and direct observation.

The Placement Score is the primary case factor used in determining the security level of the inmates and the appropriate facility to house the inmate to ensure the safety, security, treatment, and rehabilitative needs of the inmates are met, as well as the safety of staff, inmates and security of the institution. Once the classification process is completed, the inmate is transferred to a facility which corresponds with their placement score, security level, and case factors such as medical or mental health needs. Pursuant to subsection 3376(d)(2)(A), each year a review is performed by a Unit Classification Committee to determine the accuracy of the inmate's placement score. The inmate's placement score is recalculated pursuant to section 3375.4.

The department's Level IV housing includes 180-design and 270-design facilities for General Population (GP) inmates. As described in subsection 3377(d), Level IV 180-design facilities utilize housing units comprised of two wings; each wing is partitioned into three self-contained "pods" that have their own dayroom and control room. Each wing is linked by a dining facility and ancillary functions. The design of the housing unit allows for a 180-degree view of all cells and dayrooms from the control room. A Level IV 270-design facility utilizes housing units comprised of three connected sections and one dayroom. Portions of the first and third sections extend back behind the blind side of the control room. The design of the housing unit places cells within a 270-degree circumference of a circle with the control room in the center of the circle. A Level IV 270-design facility provides less direct observation than the 180-design facility.

The department's current criteria for placement of an inmate in either a Level IV 180-design or 270-design facilities is delineated in existing subsections 3375.1(a)(4)(A) through 3375.1(a)(4)(D). The previous 180-design or 270-design placement criteria focused primarily on excluding inmates for a certain period of time from Level IV 270-design facility placement, thereby requiring Level IV 180-design facility placement. Those inmates routinely excluded from Level IV 270-design facility engaged in the most violent incarcerated behavior, but also included such acts as possession of inmate manufactured weapons and distribution of controlled substances. The inmate would then become eligible for Level IV 270-design facility placement after meeting the Level IV 270-design facility exclusionary timeframe detailed in existing subsections 3375.1(a)(4)(A)1. and 2. Additionally, existing subsection 3375.1(a)(4)(A)4. allowed exclusion from Level IV 270-design facility placement during RC processing when an inmate with a Level IV placement score has case factors which exhibit an ongoing heightened security risk that potentially threatens institutional safety and security. The inmate may be deemed a security concern thereby requiring placement in a Level IV 180-design facility.

The existing criteria also allowed an inmate with 270-design facility exclusionary case factors to still be housed in a Level IV 270-design facility when the inmate required exceptional placement, as described in existing subsection 3375.1(a)(4)(A)5. Additionally, an Institution Classification Committee (ICC) had authority to override placement pursuant to existing subsection 3375.1(a)(4)(D).

Criteria for placing an inmate in a Level IV 180-design facility requires revision to better serve the inmate population and improve the allocation of departmental resources. Although the current regulations allow an ICC to override placement based on various factors, the proposed regulations will authorize all Classification Committees as described in subsections 3376(d)(1)-3376(d)(5)(E) to evaluate the inmates' case factors and determine the most appropriate placement to accommodate the interests and behavioral needs of the inmate. By revising the existing criteria, Classification Committees will no longer be required to transfer inmates back and forth between Level IV 180-design and 270-design facilities. Numerous transfers negatively impact inmates' job assignments, programming needs, and continuity of medical and mental health care. In addition, the changes in the proposed regulations will reduce staff workload, which can include conducting numerous committee actions and completing transfer audit reviews, which create an unnecessary and undue burden on departmental resources.

The department recognizes the security differences between a 180-design facility and 270-design facility, and staff will continue to consider security when housing Level IV inmates. The 180-design facility is equipped with security measures to control movement and has a direct line of sight throughout the entire building for the officer assigned to the control room, which reduces blind spots, as described in subsection 3377(d). Inmates who may need extra security controls of a 180-design facility may include those with documented Security Threat Group (STG) behavior or disciplinary history involving violence. Although set exclusionary criteria is being eliminated, the Classification Committee will be required to review the totality of inmates' case factors to include disciplinary history, documented STG behavior as well as the inmates' medical and mental health needs, family reunification and rehabilitative programming pursuant to section 3375(b) to determine their housing needs.

This action will:

- Give classification committees and reception centers more Level IV placement options.
- Promote family reunification, provide inmates with greater access to rehabilitative programs and assist the department with population, housing, and security management.
- Improve the continuity of medical and mental health care.
- Ensure fewer disruptions to an inmate's job assignment and rehabilitative programs.
- Reduce pressure on departmental resources by reducing the number of committees, audits, transfers, and inmate grievances.
- Reduce workload of classification committees, audits, and transfers for inter-level, Level IV inmates.
- Promote effective utilization of department resources.
- Enhance effective population management.
- Replace reference to CDC 128-G, Classification Chrono, with reference to the automated form stored in the Strategic Offender Management System.

DOCUMENTS INCORPORATED BY REFERENCE

None

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The proposed regulatory action will immediately benefit the Level IV inmate population by allowing inmate housing assignments to be dictated by specific case factors, which allows the department to

address rehabilitation needs leading to reduced recidivism. The proposed regulations will alleviate staff workload and reduce costly expenditures of departmental resources, eliminating unnecessary committee actions, audits, and transfers.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING 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 Level IV 180/270 Design Housing Facility.

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: *None*
- 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 business 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 the state’s environment. These regulations may benefit the welfare of California residents by helping to make CDCR institutions safer for inmates, staff, and visitors. Additionally, safer institutions may provide an environment more conducive to rehabilitation, thereby reducing recidivism.

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 at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department's website: 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

Subchapter 4. General Institution Regulations

Article 10. Classification

3375. Classification Process

Subsections 3375(a) through (f)(7) are unchanged.

Subsection 3375(g) is amended to read:

(g) Every decision of a classification committee shall be documented on an automated Classification Committee Chrono (05/19) ~~a CDC Form 128-G, Classification Chrono (Rev. 10/89).~~

Subsections 3375(g)(1) through 3375(g)(1)(E) are unchanged.

Subsection 3375(g)(1)(F) is amended to read:

(F) If during the committee discussion, a member of the committee disagrees with a decision or the basis for a decision reached by the committee, ~~he or she~~ they may provide language to the recorder to document ~~his or her~~ their opinion for inclusion in the automated Classification Committee Chrono (05/19) ~~CDC Form 128-G.~~

Subsections 3375(g)(1)(G) through 3375(l) are unchanged.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 1203.8, 3020, 5054, 5068 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Wright v. Enomoto* (1976) 462 F. Supp. 397; *Stoneham v. Rushen* (1984) 156 Cal.App.3d 302; and *Castillo v. Alameida*, et al., (N.D. Cal., No. C94-2847).

3375.1. Inmate Placement.

Subsections 3375.1(a)(1) through 3375.1(a)(4) are unchanged but shown for reference.

(a) Except as provided in Section 3375.2, each inmate shall be assigned to a facility with a security level which corresponds to the following placement score ranges:

- (1) An inmate with a placement score of 0 through 18 shall be placed in a Level I facility.
- (2) An inmate with a placement score of 19 through 35 shall be placed in a Level II facility.
- (3) An inmate with a placement score of 36 through 59 shall be placed in a Level III facility.
- (4) An inmate with a placement score of 60 and above shall be placed in a Level IV facility.

Subsection 3375.1(a)(4)(A) is amended to read:

(A) Level IV facilities, as described in section 3377(d), include 180-design and 270-design housing. The department recognizes the security differences between a 180-design and 270-design facility. A 180-design facility provides more direct supervision and controlled movement. A Classification Committee will determine placement of an inmate in a 180-design or 270-design, pursuant to section 3375. An inmate with a Level IV placement score may be housed in a Level IV 180-design facility in accordance with the following criteria:

Subsections 3375.1(a)(4)(A)1. and 3375.1(a)(4)(A)2. are deleted.

~~1. Inmates who have an assessed and imposed, suspended, and/or commuted determinate Security Housing Unit (SHU) term for a Division A 1, A 2, or B offense, which involves assaultive/violent behavior, weapons, or distribution of a controlled substance, pursuant to section 3323, within the last three incarcerated years, shall be excluded from Level IV 270-design housing for three years from the Minimum Eligible Release Date (MERD) or the date of the Institution Classification Committee (ICC) action suspending and/or commuting the SHU term, whichever comes first. If the inmate was not placed into Administrative Segregation Unit (ASU) for the offense, the inmate is not excluded from 270-design housing.~~

~~2. Inmates found guilty of any of the following Rules Violation Reports (RVRs) within the last a twelve months of incarceration shall be excluded from Level IV 270-design housing for one year from the MERD or the date of the ICC action suspending and/or commuting the SHU term for the most current offense, whichever occurs first. If the inmate was not placed into ASU for the offense, the inmate is not excluded from 270-design housing.~~

~~(i) One RVR for Inciting a Riot.~~

~~(ii) One RVR for Participation in a Riot with a direct Security Threat Group (STG) nexus.~~

~~(iii) Two or more RVR's for Participation in a Riot.~~

~~(iv) One RVR for Assault on Non-Inmate.~~

~~(v) One RVR for Battery on an Inmate with a direct STG nexus.~~

~~(vi) Two or more RVRs for Battery on an Inmate.~~

Existing subsection 3375.1(a)(4)(A)3. is renumbered to new subsection 3375.1(a)(4)(B).

Subsections 3375.1(a)(4)(A)4. and 5. are deleted.

~~4. If during Reception Center processing, and inmate is deemed a security concern and is potentially an ongoing threat to institutional safety and security, warranting more direct and constant supervision, the inmate shall be excluded from Level IV 270-design housing for one year from the date of the Classification Staff Representative endorsement.~~

~~5. Inmates excluded from Level IV 270-design housing but requiring exceptional placement may be housed in a Level IV 270-design facility. Exceptional placements, for purposes of this subsection, are inmates who are in medical or mental health treatment programs, such as a developmental disability, Americans with Disabilities Act mobility impairment that impacts placement, or in need of specific medical programs which may not be available in Level IV 180-design facilities.~~

Existing subsection 3375.1(a)(4)(B) is deleted.

~~(B) The ICC may temporarily exclude an inmate from Level IV 270-design housing pending adjudication of an RVR listed in subsections 3375.1(a)(4)(A) 1 through 2.~~

New subsection 3375.1(a)(4)(B) is adopted to provide existing subsection 3375.1(a)(4)(A)3 renumbered in this regulatory action. Text is unchanged.

~~3-(B)~~ Inmates released from SHU or a Psychiatric Services Unit (PSU) after serving an Administrative SHU Term shall be reviewed by DRB, in accordance with ~~§~~section 3376.1(d) for appropriate housing.

Existing subsection 3375.1(a)(4)(C) is renumbered to new subsection 3375.1(a)(4)(D) and text is amended.

New subsection 3375.1(a)(4)(C) is adopted to read:

(C) When making a determination for Level IV 180-design or 270-design facility placement, correctional counselors assigned to the reception center and any subsequent reviews conducted by a classification committee shall evaluate factors pursuant to subsection 3375(b). Additionally, the following factors shall be evaluated and considered:

New subsections 3375.1(a)(4)(C)1. through 3375.1(a)(4)(C)3. are adopted to read:

1. Any Security Threat Group (STG) behavior.
2. A guilty finding or pending adjudication of a Rules Violation for act(s) of violence.
3. Departmental and institutional facility program or security needs.

Existing subsection 3375.1(a)(4)(D) is deleted.

~~(D) The ICC may override placement of an inmate into 180-design or 270-design housing based upon: Department and institution's/facility's program security mission; public safety; and the inmate's needs and behavior.~~

New subsection 3375.1(a)(4)(D) is renumbered from existing subsection 3375.1(a)(4)(C) and text amended to read:

(GD) Decisions Determination for placement of inmates into a 180-design or 270-design housing and the rationale and justification for this decision shall be clearly articulated and documented pursuant to section 3375(g).

~~Level IV 270-design placement eligibility/exclusion and the reason(s) for such placement shall be clearly articulated. The documentation shall also address the rationale and~~

~~justification for placement of an inmate in a lesser or more restrictive environment than otherwise consistent with the inmate's case factors.~~

Subsections 3375.1(b) through 3375(b)(2) are unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3020, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F Supp. 397; and *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302.



CLASSIFICATION COMMITTEE CHRONO

Inmate Name: [REDACTED]	Date: [REDACTED]
CDC#: [REDACTED]	Date of Birth: [REDACTED]
Control Date: [REDACTED]	Control Date Type: [REDACTED]

Hearing Date: [REDACTED]	Hearing Type: [REDACTED]
Committee Type: [REDACTED]	Correctional Counselor: [REDACTED]

STATIC CASE FACTORS

CRITICAL CASE FACTORS

CLINICIAN COMMENTS

COMMITTEE ACTION SUMMARY

COMMITTEE COMMENTS

RECORDER

		_____ Date
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REPEAL

STATE OF CALIFORNIA

CDC-128-G (10/89) CLASSIFICATION CHRONO

DEPARTMENT OF CORRECTIONS

CDC NUMBER	NAME	CLASSIFICATION SCORE	TYPE AND RELEASE DATE
CUSTODY	ASSIGNMENT	WG-PG	NEXT CLASSIFICATION
OTHER COMMITTEE ACTIONS		HOUSING	RECOMMENDATION TO CSR
COMMENTS			

INSTITUTION	CLASSIFICATION	DATE	SIGNATURE
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STATE OF CALIFORNIA

CDC-128-G (10/89) CLASSIFICATION CHRONO

DEPARTMENT OF CORRECTIONS

CDC NUMBER	NAME	CLASSIFICATION SCORE	TYPE AND RELEASE DATE
CUSTODY	ASSIGNMENT	WG-PG	NEXT CLASSIFICATION
OTHER COMMITTEE ACTIONS		HOUSING	RECOMMENDATION TO CSR
COMMENTS			

INSTITUTION	CLASSIFICATION	DATE	SIGNATURE
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INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend sections 3375 and 3375.1 of the California Code of Regulations (CCR) Title 15, for determining placement of an inmate in a Level IV 180-design or 270-design facility. The objective of this regulatory action is to better serve the inmate population by providing flexible Level IV housing options to accommodate the interests and behavioral needs of the inmate while simultaneously reducing the impact and strain on departmental resources.

Upon arrival to CDCR, inmates are processed through a Reception Center (RC), in order to complete the classification process. The classification process is conducted by CDCR counseling staff and includes a thorough review of the inmates' case factors. As a result, the inmate is assigned a Placement Score pursuant to section 3375.3. This placement score determines housing at one of four security levels as established in subsections 3375.1(a)(1) through 3375.1(a)(4). Lower placement scores correspond with lower security controls, and higher placement scores correspond with higher security controls. Level I housing is designated for inmates who require the least secure housing and supervision. Levels II and III are designed for inmates who require more secure housing and supervision, and Level IV is designated for inmates who require the most secure housing and direct observation.

The Placement Score is the primary case factor used in determining the security level of the inmate and the appropriate facility to house the inmate to ensure the safety, security, treatment, and rehabilitative needs of the inmates are met, as well as the safety of staff, inmates and security of the institution. Once the classification process is completed, the inmate is transferred to a facility which corresponds with their placement score, security level, and case factors such as medical or mental health needs. Pursuant to subsection 3376(d)(2)(A), each year a review is performed by a Unit Classification Committee to determine the accuracy of the inmate's placement score. The inmate's placement score is recalculated pursuant to section 3375.4.

The department's Level IV housing includes 180-design and 270-design facilities for General Population (GP) inmates. As described in subsection 3377(d), Level IV 180-design facilities utilize housing units comprised of two wings; each wing is partitioned into three self-contained "pods" that have their own dayroom and control room. Each wing is linked by a dining facility and ancillary functions. The design of the housing unit allows for a 180-degree view of all cells and dayrooms from the control room. A Level IV 270-design facility utilizes housing units comprised of three connected sections and one dayroom. Portions of the first and third sections extend back behind the blind side of the control room. The design of the housing unit places cells within a 270-degree circumference of a circle with the control room in the center of the circle. A Level IV 270-design facility provides less direct observation than the 180-design facility.

The department's current criteria for placement of an inmate in either a Level IV 180-design or 270-design facility is delineated in existing subsections 3375.1(a)(4)(A) through 3375.1(a)(4)(D). The previous 180-design or 270-design placement criteria focused primarily on excluding inmates for a certain period of time from Level IV 270-design facility placement, thereby requiring Level IV 180-design facility placement. Those inmates routinely excluded from Level IV 270-design facility engaged in the most violent incarcerated

behavior, but also included such acts as possession of inmate manufactured weapons and distribution of controlled substances. The inmate would then become eligible for Level IV 270-design facility placement after meeting the Level IV 270-design facility exclusionary timeframe detailed in existing subsections 3375.1(a)(4)(A)1. and 2. Additionally, existing subsection 3375.1(a)(4)(A)4. allowed exclusion from Level IV 270-design facility placement during RC processing when an inmate with a Level IV placement score has case factors which exhibit an ongoing heightened security risk that potentially threatens institutional safety and security. The inmate may be deemed a security concern thereby requiring placement in a Level IV 180-design facility.

The existing criteria also allowed an inmate with 270-design facility exclusionary case factors to still be housed in a Level IV 270-design facility when the inmate required exceptional placement, as described in existing subsection 3375.1(a)(4)(A)5. Additionally, an Institution Classification Committee (ICC) had authority to override placement pursuant to existing subsection 3375.1(a)(4)(D).

For the reasons noted above, the existing criteria for placing an inmate in a Level IV 180-design facility requires revision to better serve the inmate population and improve the allocation of departmental resources. Although the current regulations allow an ICC to override placement based on various factors, the proposed regulations will authorize all Classification Committees as described in subsections 3376(d)(1)-3376(d)(5)(E) to evaluate the inmates' case factors and determine the most appropriate placement to accommodate the interests and behavioral needs of the inmate. By revising the existing criteria, Classification Committees will no longer be required to transfer inmates back and forth between Level IV 180-design and 270-design facilities. Numerous transfers negatively impact inmates' job assignments, programming needs, and continuity of medical and mental health care. In addition, the changes in the proposed regulations will reduce staff workload, which can include conducting numerous committee actions and completing transfer audit reviews, which create an unnecessary and undue burden on departmental resources.

The department recognizes the security differences between a 180-design facility and 270-design facility, and staff will continue to consider security when housing Level IV inmates. The 180-design facility is equipped with security measures to control movement and has a direct line of sight throughout the entire building for the officer assigned to the control room, which reduces blind spots, as described in subsection 3377(d). Inmates who may need extra security controls of a 180-design facility may include those with documented Security Threat Group (STG) behavior or disciplinary history involving violence. Although set exclusionary criteria is being eliminated, the Classification Committee will be required to review the totality of inmates' case factors to include disciplinary history, documented STG behavior as well as the inmates' medical and mental health needs, family reunification and rehabilitative programming pursuant to section 3375(b) to determine their housing needs.

CONSIDERATION OF ALTERNATIVES:

The department must determine that no reasonable alternative considered, 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 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 identified that would alter the department's initial determination.

ECONOMIC IMPACT ASSESSMENT:

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

Significant Adverse Economic Impact on Business

The department has made the initial determination that the proposed regulatory action will not have a significant adverse economic impact on business. Additionally, there have been no facts, evidence, documents, testimony, or other evidence provided that would alter the department's initial determination. The proposed regulations do not directly impact California businesses as the proposed regulations affect the internal management of prisons.

Creation of New or Elimination of Existing Jobs Within the State of California

The department has determined that the proposed regulations will not impact the creation of new or elimination of existing jobs within California. The proposed regulations only affect the internal management of prisons.

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

The department has determined that the proposed regulations will not impact the creation of new, or the elimination of existing, businesses within California or affect the expansion of businesses in California. The proposed regulations only affect the internal management of prisons.

BENEFITS OF THE REGULATIONS:

The proposed regulatory action will immediately benefit the Level IV inmate population by allowing for inmate housing assignments to be dictated by specific case factors, which allows the department to address rehabilitation needs leading to reduced recidivism. The proposed regulations will alleviate staff workload and reduce costly expenditures of departmental resources, eliminating unnecessary committee actions, audits, and transfers.

MATERIALS RELIED UPON:

The department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

SPECIFIC PURPOSE AND RATIONALE FOR EACH SECTION, PURSUANT TO GOVERNMENT CODE SECTION 11346.2(b)(1):

Subsections 3375(a) through (f)(7) are unchanged.

Subsection 3375(g) is amended to update reference to CDC Form 128-G (Rev. 10/89), Classification Chrono. In 2020, regulatory action OAL Matter Number 2020-0428-01, amended reference to the CDC Form 128-G. Information that was previously collected on the hard copy of the CDC 128-G is now entered electronically into CDCR's Strategic Offender Management System (SOMS). The reference to CDC Form 128-G, is replaced with reference to the automated Classification Committee Chrono (05/19). This change is necessary for clarity of current procedures and for clarity of the location of this information for retrieval and reference if needed.

Subsections 3375(g)(1) through 3375(g)(1)(E) are unchanged.

Subsection 3375(g)(1)(F) is amended to replace reference to CDC Form 128-G (Rev. 10/89), Classification Chrono, with reference to the automated Classification Committee Chrono (05/19), as information that was originally collected on the hard copy of the CDC 128-G is now entered electronically into CDCR's Strategic Offender Management System (SOMS). This change is documented in regulatory action OAL Matter Number 2020-0428-01. This change is necessary for clarity to provide current procedures to staff and the public. Subsection 3375(g)(1)(F) is amended to replace the terms "he or she" to "they" and "his or her" to "their." This non-sub change is necessary because "he or she" and "his or her" are specific gender pronouns and changing the language to "they" and "their" would be applicable to all genders.

Subsections 3375(g)(1)(G) through 3375(I) are unchanged.

Subsections 3375.1(a)(1) through 3375.1(a)(4) are unchanged but shown for reference in the text.

Subsection 3375.1(a)(4)(A) is amended to remove the text, "An inmate with a Level IV placement score may be housed in a Level IV 180-design facility in accordance with the following criteria." This change is necessary to be less restrictive with consideration to the placement of the Level IV inmate population in order to accommodate an inmate's preferences, as well as behavioral, medical, mental health, and departmental needs such as housing availability, population management, and institution security. For additional clarity in regards to Level IV placement, language is added to identify the difference between a Level IV 180-design facility and 270-design facility. Placement is determined by a Classification Committee completing the classification processes pursuant to section 3375.

Subsections 3375.1(a)(4)(A)1. and 3375.1(a)(4)(A)2. are deleted. Subsections 3375.1(a)(4)(A)1. and 2. mandated placement in a Level IV 180-design facility for specified periods of time when an inmate was assessed a Security Housing Unit (SHU) term for specific listed Rules Violations.

This strict criteria restricted inmates from being housed at institutions needed to address their medical and mental health needs, as well as their rehabilitative programming. This caused department staff to "override" the inmate's 180-design facility in order to place them in an appropriate institution regardless of the criteria noted in subsections 3375.1(a)(4)1. and 2. The department will no longer mandate automatic placement in a Level IV 180-design facility. New subsection 3375.1(a)(4)(C) mandates Classification Committees to evaluate and consider specific factors for determination of housing placement in a 180-design facility or 270-design facility.

Existing subsection 3375.1(a)(4)(A)3. is renumbered to new subsection 3375.1(a)(4)(B).

Subsection 3375.1(a)(4)(A)4. is deleted because this subsection only applied to newly arrived inmates into CDCR pending transfer from the RC to a Level IV institution who met 270-design facility criteria but staff determined the need for higher security controls of a 180-design facility. New subsection 3375.1(a)(4)(C) mandates Classification Committees

to evaluate and consider specific factors for determination of housing placement in a Level IV 180-design or 270-design facility for all inmates.

Subsection 3375.1(a)(4)(A)5. is deleted because the department no longer requires review for exceptional placement as new subsection 3375.1(a)(4)(C) mandates consideration of all inmate's needs and interests, pursuant to subsection 3375(b), which includes medical and mental health needs, such as a developmental disability, and Americans with Disabilities Act mobility impairments.

Existing subsection 3375.1(a)(4)(B) is deleted as this section is obsolete due to deletion of subsections 3375.1(a)(4)(A)1. and 3375.1(a)(4)(A)2. which identified strict criteria that restricted inmates from being housed at institutions that could address their rehabilitative programming and medical and mental health needs, which was causing department staff to "override" the inmate's housing to place them in an appropriate Level IV design regardless of the criteria noted in subsections 3375.1(a)(4)(A)1. and 3375.1(a)(4)(A)2. The department shall no longer mandate automatic placement in Level IV 180-design facility. New subsection 3375.1(a)(4)(C) mandates all Classification Committees to evaluate and consider specific factors for determination of housing placement in a Level IV 180-design facility or 270-design facility for all inmates.

Existing subsection 3375.1(a)(4)(A)3. is renumbered new subsection 3375.1(a)(4)(B). Text is unchanged.

Existing subsections 3375.1(a)(4)(A)1., 3375.1(a)(4)(A)2., 3375.1(a)(4)(A)4., and 3375.1(a)(4)(A)5. are deleted, therefore, existing subsection 3375.1(a)(4)(A)3. is renumbered and relocated for better text flow and clarity purposes. Subsection 3375.1(a)(4)(A)3. is renumbered 3375.1(a)(4)(B). Text remains relevant for staff to know an inmate's housing placement will be determined by the Departmental Review Board (DRB) upon release from an Administrative SHU term in accordance with subsection 3376.1(d). Only the DRB is authorized to release an inmate from Administrative SHU status, per the 2015 Settlement Agreement in *Ashker vs. Governor of the State of California*. Therefore, any lower committee is unable to evaluate a Level IV inmate's housing placement upon release to the GP.

Existing subsection 3375.1(a)(4)(C) is renumbered to new subsection 3375.1(a)(4)(D).

New subsection 3375.1(a)(4)(C) is adopted to mandate Correctional Counselors assigned to RC and any subsequent Classification Committee consider all inmates' needs and interests, pursuant to subsection 3375(b), in addition to new subsections 3375.1(A)(4)(C)1. through 3375.1(A)(4)(C)3. This is necessary, as the department shall no longer mandate automatic placement in Level IV 180-design facility.

This new criteria mandates evaluation of all identified factors to determine placement for Level IV 180-design or 270-design facility to ensure all inmates receive appropriate rehabilitative programming, medical care and mental health care, as well as consideration of inmates' needs, interests and desires to include family reunification.

New subsections 3375.1(a)(4)(C)1. and 3375.1(a)(4)(C)2. are adopted to mandate review and consideration of all documented Security Threat Group (STG) behavior, pursuant to

section 3023 and/or any guilty finding or pending adjudication of a Rules Violation for act(s) of violence when determining appropriate housing for Level IV inmates. This is necessary as inmates who engage in STG behavior, or found guilty of or have a pending adjudication of an RVR, or both may require more direct custodial supervision available in a Level IV 180-design facility due to documented history showing a propensity for violence or other negative behavior. The Level IV 180-design facility is equipped with security measures to control movement and has a direct line of sight for the officer assigned to the control room throughout the entire building, which reduces blind spots, as identified in subsection 3377(d).

New subsection 3375.1(a)(4)(C)3. is adopted to align with Penal Code (PC) section 5068, which mandates evaluation of departmental and institutional facility program or security needs when making a determination for placement of inmates in a Level IV facility. When reasonable, the department shall house an inmate in any institution of appropriate security level and gender population nearest the prisoner's home, unless other classification factors make such a placement unreasonable. "Reasonable" includes consideration of the safety of the prisoner and the institution, the length of term, and the availability of institutional programs and housing.

Existing subsection 3375.1(a)(4)(D) is deleted as there is no need for the ICC to have specific authority to override placements based on the prior exclusionary criteria. The proposed regulations provide that Correctional Counselors assigned to RC and Classification Committees, both Unit Classification Committees and ICCs, determine an inmate's placement score and will now consider those factors under new subsection 3375.1(a)(4)(C), and are authorized under the new regulations to determine the most appropriate Level IV design housing placement.

Existing subsection 3375.1(a)(4)(C) is renumbered to subsection 3375.1(a)(4)(D) and amended to remove existing language and replace it with updated language. The requirement to document the decisions for placement in a Level IV 180-design facility or a 270-design facility, pursuant to subsection 3375(g) is retained. The second and third sentences are in reference to documentation of 270-design exclusionary criteria and the rationale for the placement of an inmate into a more restrictive environment other than the placement consistent with the inmate's classification score and case factors and are deleted as the exclusionary criteria have been deleted in this regulatory action as discussed on page 2 as well as in subsection 3375.1(a)(4)(A)5., above. It is necessary for Correctional Counselors assigned to RC and all Classification Committees to clearly articulate the rationale and justification when making a determination for inmate placement in a Level IV 180-design or 270-design facility, pursuant to subsection 3375.1(a)(4)(C) to ensure all inmates are uniformly evaluated. This ensures accountability of review and evaluation, and in addition, allows inmates and correctional staff to gain knowledge and a clear understanding of the reasons utilized to determine their placement.

Subsections 3375.1(b) through 3375.1(b)(2) are unchanged.