

**REGULATION AND POLICY MANAGEMENT BRANCH**

P.O. Box 942883  
Sacramento, CA 94283-0001



June 12, 2024

**SECOND NOTICE OF CHANGE TO TEXT AS ORIGINALLY PROPOSED**

Pursuant to the provisions of Government Code Section 11346.8(c) and Section 44 of Title 1 of the California Code of Regulations (CCR), the California Department of Corrections and Rehabilitation (CDCR or the department) hereby provides notice of proposed changes made to CCR Sections regarding the Youth Offender Program. The department proposes to amend section 3000 and adopt new section 3040.4 within the CCR, Title 15, Division 3, Chapter 1.

You are receiving this notice because you provided a comment regarding the proposed regulations.

Notice of Change to Regulations 23-07 was published in the Office of Administrative Law Regulatory Notice Register on July 21, 2023. The department determined that changes to the proposed regulations were necessary, and published the first Notice of Change to Regulations as Originally Proposed on February 5, 2024. The department has again determined that additional changes are necessary to enhance the clarity of the proposed regulations.

New amendments to the proposed text are indicated by **bold dotted underline** for newly added text and **~~bold dotted underline with double strikethrough~~** for deleted text. The **bold double underline** and **~~bold double strikethrough~~** formatting from the first Notice of Change to Text as Originally Proposed and the single underline formatting from the original proposed text noticed to the public in July of 2023 has been retained in this amended text. These proposed changes are being made available for public comment.

Only those comments relating directly to the amendments indicated by bold dotted underline or bold dotted underline with double strikethrough will be considered.

**The attached regulation text contains the following changes:**

Throughout the proposed text, the phrase “under 26 years of age” has replaced “25 years of age or younger” and similar phrases. This is to eliminate confusion about potential eligibility based on age. An incarcerated person who is, for example, 25 years and six months old, is eligible based upon their age, as they are under 26 years of age.

Subsection 3040.4(a)(2) is amended to add the phrase “however, at least one member shall be a department staff member who has received specialty training as set forth in Penal Code section 2905(b)(1) to conduct these reviews” at the end of the subsection. This is necessary for clarity and to comply with Penal Code section 2905, which establishes this requirement.

Subsections under 3040.4(b) have been renumbered for improved clarity only. This renumbering does not change the meaning or effect of these provisions.

Subsection 3040.4(e)(3) is amended to replace the term “if appropriate” with “if the offender wishes to transfer after completing the program but before turning 26 years of age, or before finishing the program but after turning 26 years of age” for improved clarity. This language does not change the intended meaning of this provision but provides the specific instances in which a classification committee review will be necessary. The section also changes “may” to “shall” when describing when a committee is necessary, as this process is not discretionary.

Penal Code section 5054 has been added as a reference citation for section 3040.4. This statute is a standard reference used for most department regulations.

### **Contact Person**

Inquiries regarding this notice should be directed to Joshua Jugum, Regulation and Policy Management Branch, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2266, or e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). In the event the contact person is unavailable, inquiries should be directed to Ying Sun, Associate Director, RPMB, at (916) 445-2269.

### **Submission of Public Comments**

The comment period for these revisions will close on **June 28, 2024**. Please submit comments by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov); in writing to Joshua Jugum, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA, 94283-0001, before the close of the public comment period. Comments must be received or postmarked no later than June 28, 2024. Only those comments relating directly to the enclosed amendments indicated by **bold dotted underline** or ~~**bold dotted underline with double-strikethrough**~~ will be considered.



YING SUN, Associate Director  
Regulation and Policy Management Branch  
Department of Corrections and Rehabilitation

Attachments

## TEXT OF PROPOSED REGULATIONS - SECOND RENOTICE

In the following text, new amendments to the proposed text are indicated by **~~bold dotted underline~~** for newly added text and **~~bold dotted underline with double strikethrough~~** for deleted text. The **~~bold double underline~~** and **~~bold double strikethrough~~** formatting from the first Notice of Change to Text as Originally Proposed and the single underline formatting from the original proposed text noticed to the public in July of 2023 has been retained in this amended text.

### California Code of Regulations, Title 15, Division 3.

#### Chapter 1. Rules and Regulations of Adult Operations and Programs

##### Article 1. Behavior

##### 3000. Definitions

**Section 3000 is amended to merge the definitions below into existing definitions alphabetically:**

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Youth Offender means an individual committed to the California Department of Corrections and Rehabilitation who is **~~under 26 years of age 25 years of age or younger~~**.

Youth Offender Committee means a committee that meets with youth offenders to assess their readiness for a lower security level or placement permitting increased access to programs and to encourage the youth offender to commit to positive change and self-improvement.

Youth Offender Program means a program designed to provide youth offenders priority when placed into education assignments, program assignments, or both to address their rehabilitative needs.

Youth Offender Rehabilitative Community means a community inside a department institution designed to bring youth offenders together to encourage positive programming and afford these offenders impactful rehabilitative and educational resources targeted to their specific needs, including cognitive behavioral treatment and peer mentoring.

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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(b)(1), 1203.8, 1389, 2080, 2081.5, 2084, 2600, 2601, 2700, 2717.1, 2717.6, 2905, 2932.5, 3003.5(a), 3007.05, 3020, 3450, 3550, 4570, 4576, 5005, 5009, 5050, 5054, 5068, 7000 et seq., 7286.5, 11180 and 11191, Penal Code; Sections 1132.4 and 1132.8, 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; Sections 11007, 11351, 11352, 11378 and 11379, Health and Safety 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; *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.

##### Article 3. Work and Education

**New section 3040.4 is adopted.**

#### **3040.4 Youth Offender Program.**

##### **(a) Youth Offender Program (YOP)**

**(1) The department shall, at reception, automatically grant a youth offender ~~under 26 years of age~~ 25 years of age or younger a lower security level than the level that corresponds with that individual's placement score pursuant to section 3375.1, or placement in a facility that permits increased access to programs, except for a youth offender who has committed a serious in-custody offense, who shall be reviewed by a classification committee. Participation shall be mandatory for the initial 12 months for all eligible offenders ~~under 26 years of age~~ 25 years of age or younger at the designated Youth Offender Rehabilitative Community (YORC) or a YOP institution.**

**(2) Offenders received into CDCR who are ~~under 26 years of age~~ 25 years of age or younger upon reception, who have received a Division "A" or "B" offense involving violence, or equivalent behavior from a verifiable incarcerated period, shall require a Youth Offender Committee (YOC) for program placement consideration. The YOC may be completed by any classification committee, however, at least one member shall be a department staff member who has received specialty training as set forth in Penal Code section 2905(b)(1) to conduct these reviews.**

**(3) If the offender has been determined not appropriate for YOP placement, all YOP exclusionary factors shall be documented on the CDC Form 128-G, (Rev. 10/89), Classification Chrono, which is incorporated by reference. The committee shall make an alternative placement recommendation to a non-YORC or YOP institution, consistent with the offender's case factors.**

**(4) Offenders with a placement score of 36-59 (Level III) or 60+ (Level IV), who are eligible for placement in a lower security YORC or a YOP institution which is not consistent with their placement score, require the 'AGE' Administrative Determinant (AD) pursuant to section 3375.2.**

##### **(b) Youth Offender Program Reception Center (RC) Processing and Eligibility**

**(1) All offenders ~~under 26 years of age~~ 25 years of age or younger received at a RC shall be identified.**

**(2) Offenders received into CDCR who are ~~under 26 years of age~~ 25 years of age or younger upon reception shall be considered for placement in the YORC or YOP based on the following eligibility criteria: (a) Rules Violation Reports (RVR) involving violence, which are classified as either a Division "A" or "B" offense, or equivalent behavior from a verifiable incarcerated period, shall require a case-by-case review by a classification committee to ensure appropriateness of program eligibility.**

##### **(c) General Population (GP) Criteria for Youth Offender Program Placement**

**(1) Offenders ~~under 26 years of age~~ 25 years of age or younger who previously opted not to participate, were deemed ineligible, or denied participation in the program under prior policy, shall be evaluated for voluntary placement at their subsequent annual review. All offenders currently participating in the YOP shall continue to be reviewed annually for appropriate placement.**

**(2) The offender shall be disciplinary free of RVRs involving violence, which are classified as either Division "A" or "B" offenses (or equivalent behavior from a verifiable incarcerated period), for the past 12 months from the date of review by committee for program consideration. If deemed eligible, offenders who volunteer for program placement shall be transferred to the designated YORC or YOP institution.**

**(d) Youth Offender Rehabilitative Community (YORC). Priority placement is given to Reception Center offenders received into CDCR who meet the Youth Offender Program eligibility criteria at a YORC and shall be considered for placement in the 12-month YORC curriculum. The YORC curriculum includes courses regarding addiction, gang prevention, victim awareness, and other educational and rehabilitative programming.**

##### **(e) Removal Process**

**(1) RVRs involving violence which are classified as either a Division "A" or "B" offense shall require a case-by-case review by a classification committee to determine program retention or removal.**

**(2) Any inmate who generates a significant disciplinary history (Program Failure) within a six-month period as defined in section 3000 may be reviewed by committee.**

**(3) Offenders who have completed the program or have aged out (~~no longer under 26 years of age~~)**

~~(exceeded age 25) may shall~~ be taken to committee for transfer if ~~appropriate the offender wishes~~  
~~to transfer after completing the program but before turning 26 years of age, or before finishing~~  
~~the program but after turning 26 years of age.~~

(4) YOP participants who do not wish to continue with the program after the mandatory 12 months shall  
be removed from the program following their annual review and transferred to appropriate housing  
commensurate with their case factors.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2905 and 5054, Penal Code.