

STAFF MISCONDUCT, EMPLOYEE DISCIPLINE, AND ADMINISTRATIVE REMEDIES

SECOND READOPTION OF EMERGENCY REGULATIONS (Government Code section 11346.1(h))

Background

The California Department of Corrections and Rehabilitation (CDCR or the department) finds that an emergency continues to exist to justify readoption of emergency regulations regarding staff misconduct, employee discipline, and administrative remedies (including grievances, appeals, and requests for reasonable accommodation). These regulations may be found in the California Code of Regulations (CCR), Title 15, Division 3, sections 3392, 3392.1, 3392.3, 3392.5, 3392.8, 3392.9, 3450, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3486.1, 3486.2, 3486.3.

The circumstances that necessitated emergency adoption of these regulations are unchanged since the first readoption of the regulations. The Finding of Emergency filed with the initial filing of this emergency rulemaking is incorporated in this notice as it has not yet been provided to the public.

Statement Regarding Notice of Proposed Emergency Action

(California Code of Regulations, Title 1, section 48, Notice of Proposed Emergency Action)

Government Code section 11346.1(a)(2) requires that at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

How to Make a Comment

(California Code of Regulations, Title 1, section 55, OAL Review of Public Comments)

Any person may submit written comments about this readoption of emergency 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. In order to receive consideration, any comment submitted regarding this emergency readoption must be submitted to both CDCR and the Office of Administrative Law (OAL), and must contain a notation that they are submitted to OAL for consideration in connection with this emergency readoption and identify the topic of the rulemaking action to which the comment relates. Comments must be received by OAL within five calendar days after the notice of filing of this rulemaking action is posted by OAL on its Internet website. Comments may be submitted to OAL by

e-mail to staff@oal.ca.gov, or by mail to Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339.

Description of the Specific Facts Demonstrating the Existence of an Emergency (Government Code section 11346.1(b)(2))

These emergency regulations initially took effect January 1, 2025, pursuant to the emergency operational necessity provisions of Penal Code section 5058.3. The emergency regulations were readopted with no changes for an additional 90 days, effective June 10, 2025.

Over the past several years, CDCR implemented several organizational and cultural efforts to promote healthier relationships between staff, the incarcerated and supervised population, families, volunteers, and all others impacted by the criminal legal system. One element of this is the way the department addresses allegations of staff misconduct. In recent years, CDCR enacted regulatory changes in a good faith effort to enhance the overall processing of staff misconduct allegations. Several benefits were realized through this endeavor, including a process to ensure all claims received are impartially reviewed. However, despite exhaustive efforts to make the system work as envisioned, weaknesses threaten to cause the process to break under its own weight and require modifications. CDCR has elected to take a holistic approach to resolve existing weaknesses within the system. While each enhancement is expected to yield a positive impact, their true benefits will be maximized when they are implemented in concert.

These regulations will significantly improve the department's handling of staff misconduct allegations involving incarcerated and supervised persons, which in turn will improve departmental transparency, integrity, and staff accountability. These regulations will also bring CDCR into compliance with expanded *Armstrong* Court Orders (*Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307 CW on September 8, 2020) that call for reforms to the department's staff complaint, investigation, and discipline processes to ensure CDCR completes unbiased, comprehensive investigations into all allegations of staff misconduct.

Allowing emergency authority for these regulations to expire would subject thousands of incarcerated and supervised persons to disruptions and delays in having their grievances, appeals, and requests for reasonable accommodation reviewed and resolved. The processes codified in the emergency regulations differ significantly from the processes that preceded these regulations. Reverting to the prior processes would be highly impractical and would risk violating agreements with class-action plaintiffs.

Therefore, the department contends that an emergency continues to exist which requires the readoption of emergency authority for this rulemaking action.

FINDING OF EMERGENCY

AUTHORITY AND REFERENCE CITATIONS (Government Code section 11346.5(a)(2))

Pursuant to the authority granted by Government Code section 12838.5, Penal Code section 5055, and the rulemaking authority granted by Penal Code sections 5058 and 5058.3 (in order to implement, interpret and make specific Penal Code section 5054), the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend sections 3450, 3480, 3484, 3486, 3486.1, 3486.2, 3486.3, 3392, 3392.1, 3392.3, 3392.5, 3392.8, and 3392.9; and repeal and adopt sections 3481, 3482, 3483, and 3485, in the California Code of Regulations (CCR), Title 15, Division 3, concerning staff misconduct, employee discipline, and administrative remedies of grievances and appeals.

Penal Code section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections, in this or any other code, refers to the California Department of Corrections and Rehabilitation.

Penal Code 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 California Department of Corrections and Rehabilitation.

Penal Code 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 California Department of Corrections and Rehabilitation.

Penal Code section 5058 authorizes the Secretary of the California Department of Corrections and Rehabilitation to prescribe and amend regulations for the administration of prisons.

Penal Code section 5058.4(a) requires the Secretary of the California Department of Corrections and Rehabilitation to implement a disciplinary matrix identifying misconduct categories and penalty ranges applicable to all employees, taking into account aggravating and mitigating factors for establishing a just and proper penalty, as required by the California Supreme Court in *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194.

Penal Code section 5058.4(b) requires the Secretary of the California Department of Corrections and Rehabilitation to adopt a code of conduct for all employees of the department.

Penal Code section 5058.4(d) requires the Secretary of the California Department of Corrections and Rehabilitation to provide instructions on how to report misconduct, of the duty to fully cooperate during investigations, and to provide assurances against retaliation.

INFORMATIVE DIGEST (Government Code section 11346.5(a)(3))

The department previously adopted emergency regulations regarding staff misconduct, employee discipline, and grievances and appeals in 2020, and later codified these provisions into permanent regulations. Permanent regulations regarding grievances and appeals were adopted on January 5, 2022 (OAL File No. 2021-1207-06); permanent regulations regarding employee discipline were adopted on September 29, 2022 (OAL File No. 2022-0912-03); permanent regulations regarding staff misconduct were adopted on October 20, 2022 (OAL File No. 2022-0909-01).

Over the past several years, CDCR implemented several organizational and cultural efforts to promote healthier relationships between staff, the incarcerated population, families, volunteers, and all others impacted by the criminal legal system. One element of this is the way the department addresses allegations of staff misconduct. In recent years, CDCR enacted regulatory changes in a good faith effort to enhance the overall processing of staff misconduct allegations. Several benefits were realized through this endeavor, including a process to ensure all claims received are impartially reviewed. However, despite exhaustive efforts to make the system work as envisioned, weaknesses threaten to cause the process to break under its own weight and require modifications. CDCR has elected to take a holistic approach to resolve existing weaknesses within the system. While each enhancement is expected to yield a positive impact, their true benefits will be maximized when they are implemented in concert.

These regulations will significantly improve the department's handling of staff misconduct allegations involving incarcerated and supervised persons, which in turn will improve departmental transparency, integrity, and staff accountability. These regulations will also bring CDCR into compliance with expanded *Armstrong* Court Orders (*Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307 CW on September 8, 2020) that call for reforms to the department's staff complaint, investigation, and discipline processes to ensure that CDCR completes unbiased, comprehensive investigations into all allegations of staff misconduct.

This emergency rulemaking action implements, in part, a remedial plan adopted by CDCR as directed by court order issued in *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307 CW on September 8, 2020. (Order). This Order requires CDCR to implement remedial measures to achieve compliance with the *Armstrong* Remedial Plan (ARP) and the Americans with Disabilities Act (ADA) at the Richard J. Donovan Correctional Facility (RJD).

POLICY STATEMENT OVERVIEW (Government Code section 11346.5(a)(3)(C))

This rulemaking action will:

- Keep intact the Centralized Screening Team (CST) to act as an unbiased initial reviewer of requests and claims received statewide from incarcerated and supervised persons, to determine if there are any allegations of staff misconduct contained therein. When an allegation of staff misconduct is identified in a request or claim, CST will determine whether the allegation shall be referred to the Office of Internal Affairs (OIA) for an investigation. CST shall refer allegations of staff misconduct not referred to OIA to the Reviewing Authority for assignment to an appropriate supervisor. When the referral involves a violation of the Armstrong Remedial Plan, the ADA Coordinator will normally serve as the Reviewing Authority.
- Keep intact the CDCR Office of Legal Affairs (OLA), Employee Advocacy and Prosecution Team (EAPT), which was established in 2006 as part of the *Madrid* Federal Remedial Orders, to implement the Vertical Advocacy (VA) Model. EAPT will continue to designate and assign Staff Attorneys to provide legal support and guidance to CDCR throughout the investigation and disciplinary processes, including any litigation before the State Personnel Board (SPB) and appellate courts for serious and complex cases. The *Madrid* Court Orders require CDCR to maintain the public confidence in its ability to properly investigate and adjudicate complaints and allegations of staff misconduct, while maintaining the rights of employees and the public.
- Replace the Allegation Inquiry process with a “routine review” process for grievances and requests for reasonable accommodation. The Allegation Inquiry process has severely restricted a supervisor’s ability to supervise their staff and take timely corrective action designed to prevent staff from engaging in repeated violations of a similar nature. The Allegation Inquiry process bypasses managers with oversight of these areas from being directly involved. This top-heavy process for less serious issues has overwhelmed the limited resources within the OIA and upper management. The existing Allegation Inquiry process will be replaced by routine reviews. A routine review would be conducted by a supervisor or manager to gather facts and determine if the complaint is true; if true, then determine what corrective action is appropriate. Any corrective action would be presented to a manager for approval. During a routine review, if a supervisor gathers facts which may result in adverse action, including the discovery of prior similar claims of sustained staff misconduct against the staff involved, the Reviewing Authority shall refer the matter to OIA for investigation.
- Add requests for reasonable accommodation to the amended processes for responding to grievances. As reasonable accommodation requests are reviewed and processed in the same manner as grievances, the department determined that codifying that process in regulations would provide clarity to claimants as well as staff involved in processing these requests. To that end, the existing form related to grievances and the form related to requests for reasonable accommodation have been merged into a single form, which is incorporated by reference in these regulations.

- Eliminate a Hiring Authority's ability to pursue adverse disciplinary action without an OIA investigation. Prior to the implementation of these regulations, a Hiring Authority could submit a request for direct adverse action to OIA which, if approved, would authorize the Hiring Authority to take adverse action. With the implementation of these regulations, the OIA will no longer approve requests for direct adverse action. Instead, all allegations of staff misconduct submitted to the OIA will be investigated by OIA.
- Create two special conditions that will allow for the closure of an investigation into an allegation of staff misconduct. First, when audio/video recordings provide conclusive evidence that the alleged misconduct did not occur. Second, when no further investigatory steps can be pursued due to the lack of specificity provided by the claimant and the claimant's refusal to cooperate with the investigator's efforts to obtain additional information. This will allow for the closure of an investigation when independent evidence satisfies the burden of proof without the unnecessary expenditure of scarce resources.
- Create three new decision types that may be issued by the Office of Appeals in response to an appeal of a grievance or reasonable accommodation request. First, "Remanded" shall be used in cases where the Office of Grievances made procedural or substantive errors in reviewing or responding to a grievance or request for reasonable accommodation. Second, "Overlooked" shall be used in cases where the Office of Grievances failed to respond properly, pursuant to these regulations, to a claim submitted in a grievance or request for reasonable accommodation. Third, "Bypassed" shall be used when the claimant adds a claim as part of their appeal that was not originally submitted as part of the grievance or request for reasonable accommodation. These new decisions do not exhaust the administrative remedies process, as claimants will receive a subsequent decision regarding their claims.
- Establish that claims shall be rejected if they object to any of the following: a decision issued by Office of Appeals; the fact-gathering process during a routine review; the fact-gathering process during an investigation of staff misconduct; the findings made by a Hiring Authority at the conclusion of an investigation of staff misconduct; or the verbal or written statements submitted by staff under penalty of perjury to a court of law or administrative tribunal. These new rejection criteria are necessary because, respectively: the Office of Appeals is the final level of appeal; fact gathering is an internal process that is not subject to appeal; Hiring Authorities have the final authority to make findings following an investigation of staff misconduct; and statements made under oath are properly the purview of the presiding authority at the court or tribunal.
- Establish that department staff shall not access grievances, requests for reasonable accommodation, or appeals in the department's information technology system unless specifically assigned to respond to a claim or when fulfilling another legitimate business need. These provisions are intended to help prevent retaliation against claimants.

- Create a policy review process. This process will be utilized when an incarcerated or supervised person makes a claim that a specific department policy violates or contradicts established law or pre-existing policy issued by a higher authority and should be changed or repealed, rather than alleging misconduct on the part of one or more department staff.
- Amend and adopt provisions related to access to personal records to update the process and timelines for requests pursuant to the Information Practices Act.
- Adopt, amend, and repeal definitions related to the amended provisions. Duplicative definitions (i.e., definitions that appear in multiple sections that apply to the same Article) have been removed.
- Repeal outdated implementation dates. Previous regulations had a graduated implementation schedule based upon court orders. Those dates have passed and are no longer relevant.
- Maintain CDCR's ability to identify and track requests and claims, including allegations of staff misconduct, and its ability to conduct independent, objective and thorough reviews.

DOCUMENTS INCORPORATED BY REFERENCE

CDCR Form 602-1 / 1824, Grievance / Reasonable Accommodation Request (Rev. 01/25)

CDCR Form 602-2, Appeal (Rev. 01/25)

CDCR Form 602-3, Request to Implement Overdue Remedy (Rev. 01/25)

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS (Government Code section 11346.5(a)(3)(C))

These regulations will significantly improve the department's handling of staff misconduct allegations toward an incarcerated or supervised person, which in turn will improve departmental transparency, integrity, and staff accountability.

These regulations will also bring CDCR into compliance with expanded *Armstrong* Court Orders that call for reforms to the department's staff complaint, investigation, and discipline processes to ensure that CDCR completes unbiased investigations and routine reviews for class members under the *Armstrong* Remedial Plan and the Americans with Disabilities Act.

As part of CDCR's holistic approach, the administrative remedies process has been enhanced to ensure requests and claims are processed effectively, including requests for reasonable accommodation and allegations of staff misconduct.

The department seeks to make CDCR safer, more efficient, and fair by effectively managing its core responsibility to objectively and thoroughly address allegations of staff misconduct with a process that is more accessible, responsive, and meaningful.

EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS (Government Code section 11346.5(a)(3)(D))

The department has determined that these proposed regulations are not inconsistent or incompatible with existing regulations or other state laws.

STATUTORY REQUIREMENTS, IF ANY, SPECIFIC TO AGENCY (Government Code section 1346.5(a)(4))

Not applicable

LOCAL MANDATE DETERMINATION (Government Code section 11346.5(a)(5))

This action imposes no mandates on local agencies or school districts, nor a mandate which requires reimbursement of costs or savings pursuant to Government Code sections 17500 through 17630.

FISCAL IMPACT STATEMENTS OF COST OR SAVINGS FOR THE FOLLOWING (Government Code section 11346.5(a)(6))

- Cost to any local agency or school district requiring reimbursement: *None*
- Cost or savings to any state agency: *None*
- Cost or savings in federal funding to the state: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON

Not applicable

**Statement Demonstrating Substantial Progress to Comply with Government Code Section 11346.1(e)
(California Code of Regulations, Title 1, Section 52, Readoption of Emergency Regulations)**

These emergency regulations were initially approved by the Office of Administrative Law (OAL) pursuant to Penal Code section 5058.3 on December 26, 2024, with an effective date of January 1, 2025. The original expiration date of emergency authority for this rulemaking action was June 11, 2025.

The department submitted a request for readoption of the emergency regulations, pursuant to Penal Code section 5058.3, to OAL on May 22, 2025. This request was approved and took effect on June 10, 2025. The regulations will remain in emergency effect until September 10, 2025.

On April 3, 2025, the department submitted notice of proposed regulations to OAL (Notice File No. 2025-0403-01). This notice was published in the California Regulatory Notice Register on April 18, 2025, and distributed to all persons who have requested to be notified of regulatory actions taken by the department. The proposed regulations were also posted on the department's website and distributed to all department institutions for posting. The department accepted public comments through June 3, 2025.

The department issued a Notice of Change to Regulations as Originally Proposed (Renotice) on July 25, 2025. A second readoption of the emergency regulations is needed to ensure the department has sufficient time to complete this renotice and respond to any additional public comments received.

Original Signed By:

8/7/25

JENNIFER BARRETTO

Undersecretary, Administration

California Department of Corrections and Rehabilitation

Date

TEXT OF PROPOSED EMERGENCY REGULATIONS

In the following text, new language is indicated by underline and deleted language is indicated by ~~strikethrough~~.

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 5. Personnel

Article 2. Employees

Section 3392. Employee Discipline.

Subsections under 3392(a) are amended to repeal the definitions indicated by ~~strikethrough~~. The remaining subsections are renumbered to account for repealed subsections and are otherwise unchanged.

(a) Definitions -- The definitions in this section apply to Subchapter 5, Article 2, sections 3391 and 3392 through 3392.10.

(1) 5/8/40 Work Schedule -- A fixed work schedule consisting of five 8-hour days during a workweek.

(2) Administrative Time Off -- A form of paid leave initiated by a hiring authority when it is determined that an employee should not come to work as set forth in section 3392.9.

(3) Adverse Action -- A punitive action taken by a hiring authority to discipline an employee as set forth in section 3392.3.

~~(4) Allegation Inquiry Unit (AIU) -- The unit within the Office of Internal Affairs that conducts investigations into complaints alleging misconduct toward incarcerated persons and supervised persons as set forth in 3486.2, and reviews allegation inquiry reports completed by locally designated investigators.~~

~~(5)~~ Appointing Power -- The Secretary of the CDCR.

~~(6)~~ Bargaining Unit Agreement (also known as a Memorandum of Understanding) -- An agreement entered into between the State of California and an employee representative organization certified by the Public Employee Relations Board as the exclusive representative for an employee bargaining unit.

~~(7) Centralized Screening Team -- The entity that reviews documentation to determine if the documentation contains a routine issue, alleges misconduct toward an incarcerated person or supervised person, or alleges misconduct not involving an incarcerated person or supervised person.~~

~~(8)~~ Corrective Action -- A non-punitive action taken by a supervisor to assist an employee to improve work performance, or correct behavior or conduct as set forth in section 3392.2.

~~(9)~~ Designated Case -- An employee discipline case assigned to a vertical advocate.

~~(10)~~ Employee Disciplinary Matrix -- The department's Employee Disciplinary Matrix set forth in section 3392.5, utilized by all hiring authorities to identify misconduct allegations and determine the penalty to be imposed when an allegation(s) of misconduct is sustained.

~~(11)~~ Employee Relations Officer -- The department employee responsible for coordinating the administrative process for designated cases, and representing the department in non-designated cases during the disciplinary process and at any administrative hearings.

(4210) Hiring Authority – The appointing power may act, or delegate the power to act, as the hiring authority. The hiring authority has the power to hire, initiate the investigation process by submitting a confidential request for internal affairs investigation or approval for direct adverse action, discipline, and dismiss staff. The power to act as a hiring authority may be delegated to the following classifications: Undersecretary; Assistant Secretary; General Counsel; Chief Deputy General Counsel; Executive Officer; Chief Information Officer; Director; Deputy Director; Associate Director; Assistant Deputy Director; Chief, Office of Correctional Safety; Chief, Office of Labor Relations; Warden; Superintendent; Health Care Chief Executive Officer; Regional Health Care Administrator; Regional Parole Administrator; Parole Administrator; Superintendent of Education; Assistant Superintendent of Education; Administrator at the Richard A. McGee Correctional Training Center for Correctional Officer Cadets; or any other person authorized by the appointing power.

(4311) Job Steward -- A recognized union representative for a state bargaining unit.

(4412) Letter of Intent -- Written notification to a peace officer employee that an investigation has been completed, adverse action will be taken, and the proposed penalty.

(4513) Manager -- An employee in a managerial classification having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

~~(16) Locally Designated Investigator -- Departmental staff trained by OIA to collect evidence and conduct Allegation Inquiries.~~

(174) Monitored Case -- An employee discipline case monitored by the Office of the Inspector General.

(185) Non-Designated Case -- An employee discipline case assigned to an employee relations officer.

(196) Notice of Adverse Action -- A written notice of punitive action to an employee including the penalty, effective date of the action, causes for discipline, factual allegations of misconduct, pre-deprivation (*Skelly*) rights, and the right to appeal the action to the State Personnel Board.

~~(2017) Office of Internal Affairs -- The entity with authority to investigate allegations of employee misconduct.~~

(2418) Official Personnel File -- A file for a department employee containing records maintained by the department including records relating to the employee's performance or any grievances filed by the employee.

(2219) Preponderance of Evidence -- The standard of proof necessary to establish that it is more likely than not that the alleged misconduct occurred.

(2320) Progressive Discipline -- Written preventative, corrective, or disciplinary action, providing an employee with notice of departmental expectations, an opportunity to learn from prior mistakes, and correct and improve future work performance.

(2421) Qualifying Pay Period -- Eleven or more qualifying workdays of service in a monthly pay period.

(2522) Qualifying Work Day -- An employee's regularly scheduled workday, excluding regular-days-off, sick leave, holidays, vacation, annual leave, or other periods of approved leave.

(2623) *Skelly* Hearing -- A hearing, normally held prior to the effective date of an adverse action, which provides the employee with an opportunity to respond to the allegations of misconduct set forth in the notice of adverse action.

(2724) *Skelly* Letter -- A letter notifying the employee of the hiring authority's final decision regarding the imposition of a disciplinary penalty.

(2825) *Skelly* Officer -- An employee, normally a manager assigned to conduct a *Skelly* Hearing and make a recommendation to the hiring authority as set forth in section 3392.8.

(2926) *Skelly* Package -- All documents and materials relied upon by the hiring authority to impose adverse action.

~~(3027)~~ Vertical Advocate -- An Employment Advocacy and Prosecution Team attorney who provides legal advice to the department during investigations and the employee discipline process for designated cases, and represents the department at administrative hearings and during any subsequent writ or appellate proceedings.

~~(3428)~~ Work Week -- Any seven consecutive days, starting with the same calendar day each week beginning at any hour on any day, so long as it is fixed and regularly occurring.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 5054, 5058.4 and 6053, Penal Code; Sections 3304(d)(1), 3513, 19570 and 19574, Government Code; Section 115, Evidence Code; *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194; *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995); and *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW, *Madrid v. Woodford*, Special Masters Final Report Re: Department Of Corrections Post Powers Investigations And Employee Discipline; Case No. C90-3094-T.E.H. and *Madrid v. Woodford*, Order; and Case No. C90-3094-T.E.H. Class Action.

Section 3392.1. Allegation Inquiry and Investigation Findings.

(a) Upon receipt and review of an ~~allegation inquiry report~~, investigation report, ~~or approval of direct adverse action~~, the hiring authority shall render a determination for each allegation for each subject. The findings and their explanations are as follows:

Subsections 3392.1(a)(1) through 3392.1(a)(5) are unchanged. Subsections 3392.1(b) and 3392.1(c) are repealed.

~~(b) If the hiring authority finds an allegation inquiry report insufficient to make investigation findings, the hiring authority shall refer the case to OIA for investigation.~~

~~(c) When a hiring authority sustains misconduct as a result of an allegation inquiry, only corrective action can be imposed unless a request for direct adverse action is approved by OIA.~~

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 5054 and 5058.4, Penal Code, *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW, *Madrid v. Woodford*, Special Masters Final Report Re: Department Of Corrections Post Powers Investigations And Employee Discipline; Case No. C90-3094-T.E.H. and *Madrid v. Woodford*, Order; and Case No. C90-3094-T.E.H. Class Action.

Section 3392.3. Adverse Action.

Subsections 3392.3(a) through 3392.3(c) are unchanged. Subsection 3392.3(d) is amended.

(d) Adverse action for off-duty misconduct requires a Nexus between the employee's behavior and their employment.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 18524, 19571 and 19572, Government Code; Section 115, Evidence Code; and Sections 5054 and 5058.4, Penal Code; *Yancey v. State Personnel Board* (1985) 167 Cal.App.3d.478; *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW, *Madrid v. Woodford*, Special Masters Final Report Re: Department Of

Corrections Post Powers Investigations And Employee Discipline; Case No. C90-3094-T.E.H. and *Madrid v. Woodford*, Order; Case No. C90-3094-T.E.H. Class Action.

Section 3392.5. Employee Disciplinary Matrix.

Subsections 3392.5(a) and 3392.5(b) are unchanged. Subsection 3392.5(c) is amended.

(c) Applying the Employee Disciplinary Matrix.

(1) The Employee Disciplinary Matrix shall be used for all disciplinary actions to identify the applicable matrix misconduct allegation(s) and determine the appropriate penalty.

(2) Prior to assessing a disciplinary penalty, the hiring authority must find the investigation ~~or direct action materials~~ sufficient to make investigation findings, which must be documented on CDCR Form 402 (Rev. 01/22), Hiring Authority Review of Investigation, which is incorporated by reference. If the hiring authority finds the investigation ~~or direct action materials~~ insufficient to make investigation findings, the hiring authority shall document that finding in the department's information technology system on the CDCR Form 402 and refer the case to OIA for investigation.

Subsections 3392.5(c)(3) through 3392.5(c)(13) are unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Section 5054, Penal Code; Section 19572, Government Code; *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995.); *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW, *Madrid v. Woodford*, Special Masters Final Report Re: Department Of Corrections Post Powers Investigations And Employee Discipline; Case No. C90-3094-T.E.H. and *Madrid v. Woodford*, Order; and Case No. C90-3094-T.E.H. Class Action

Section 3392.8. Skelly Hearing.

Subsections 3392.8(a) through 3392.8(e) are unchanged.

Subsection 3392.8(f) is amended.

(f) Unless waived by the employee, the *Skelly* Officer shall be a manager at an organizational level above the employee's supervisor, who did not request a confidential internal affairs investigation ~~or approval of direct action~~, sign the employee's notice of adverse action, or participate in the decision to take adverse action.

Subsections 3392.8(g) through 3392.8(k)(4) are unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 5054 and 5058.4, Penal Code; *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194; Section 19590, Government Code; *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW; *Madrid v. Woodford*, Special Masters Final Report Re: Department Of Corrections Post Powers Investigations And Employee Discipline; Case No. C90-3094-T.E.H., *Madrid v. Woodford*, Order; Case No. C90-3094-T.E.H. Class Action and CCR, Title 2, Section 52.6.

Section 3392.9. Use of Administrative Time Off.

Subsections 3392.9(a) through 3392.9(a)(3) are unchanged.

Subsection 3392.9(a)(4) is amended.

(4) The employee's continued presence in the workplace during the investigation or discipline process would undermine the department's ability to conduct a fair and complete ~~thorough~~ investigation or discipline process.

Subsection 3392.9(a)(5) is unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Section 5054, Penal Code; *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW, *Madrid v. Woodford*, Special Masters Final Report Re: Department Of Corrections Post Powers Investigations And Employee Discipline; Case No. C90-3094-T.E.H. and *Madrid v. Woodford*, Order; and Case No. C90-3094-T.E.H. Class Action.

Article 6. Information Practices

Section 3450. Personal Information Record Access and Amendment.

Section 3450 is amended.

(a) Pursuant to the Information Practices Act, Any person on whom the department maintains a record or file containing personal information has the right to inspect their record or authorize any person to inspect such records on their behalf and to request amendment to correct outdated, inaccurate, or incomplete information.

(1) In order to identify the individual requesting access to a record or file, and to determine who the contents of a record or file shall be disclosed to, all Requests to inspect a record or file shall be submitted in writing to the Warden (if the person is incarcerated), the Regional Parole Administrator (if the person is supervised), or the Secretary (if neither of those circumstances apply) office or official responsible for maintaining the record. If the written request authorizes a third party to perform the inspection, then a copy of the third party's passport, driver's license, or other form of government-issued photographic identification shall be included with the written request. The department shall permit the inspection to occur within 30 calendar days of receiving the request, unless the request involves records that are geographically dispersed or which are inactive and in central storage, in which case the inspection shall be permitted within 60 calendar days. In addition, the department shall permit the person to have an exact copy made of all or any portion of the record or file within 15 calendar days of the inspection.

(2) Requests to amend a record or file shall be submitted in writing, including documentary evidence to support the proposed amendment, to the Warden (if the person is incarcerated), the Regional Parole Administrator (if the person is supervised), or the Secretary (if neither of those circumstances apply) source of the contested information, or if the source is not available, to the office or official responsible for maintaining the record. No later than 30 calendar days after receiving the request, the department shall either:

(A) adopt the requested amendment and inform the person that the amendment was adopted, or (B) reject the requested amendment and inform the person that the amendment was rejected, the reason the amendment was rejected, how to request a review of the department's decision, and the deadline to request such a review (as described in subsection 3482(a)).

(b) The denial of a request to amend information may be appealed in writing first to the institution head or headquarters' division head and then to the director, and shall include all documentation pertaining to the requested amendment. Incarcerated and supervised persons may appeal the

denial of a request using the incarcerated/supervised person appeal process established in these regulations.

~~(c) When an individual's appeal of the request decision is denied, they may submit to the office or official responsible for maintaining the record a statement of disagreement for placement in the record or file. The statement shall normally be limited to three pages and shall remain a part of the record for as long as the disputed information is retained.~~

~~(bd)~~ No incarcerated or supervised person shall prepare, handle, or destroy any portion of a departmental record containing confidential information as that term is defined in section 3321.

~~(ce)~~ No incarcerated or supervised person shall prepare, handle, or destroy any portion of a departmental record containing personal information except:

(1) As provided for in section 3041(e), or

(2) Their copies of such records provided to them by the Department.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Section 1798.20, Civil Code.

Subchapter 5.1. Incarcerated and Supervised Person Programs

Article 1. Administrative Remedies for Incarcerated and Supervised Persons

Section 3480. Implementation Date and Definitions.

Section 3480 is amended.

(a) The provisions of this Article shall apply to all ~~incarcerated and supervised person~~ grievances, reasonable accommodation requests, and appeals received by the Department of Corrections and Rehabilitation from persons under its legal custody or supervision on or after January 15, 2025.

(b) For purposes of this ~~a~~Article and Article 1.5 of this Subchapter, the following definitions shall apply:

(1) "Administrative remedies" refers to means the non-judicial process provided by the department to address grievances, reasonable accommodation requests, and appeals ~~incarcerated and supervised person complaints.~~

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

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

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

(35) "Claim" means a single issue or event or a course of conduct ~~complaint~~ arising from a unique set of facts or circumstances.

(46) "Claimant" refers to an person ~~incarcerated or supervised person~~ under the custody or control of the Department who files a claim ~~grievance or appeal~~ with the Department.

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

(68) "Department" and "departmental staff" refers exclusively to the Department of Corrections and Rehabilitation and to all employees, contractors, and volunteers associated with the Department, except those employed by the Board of Parole Hearings, the Prison Industry Authority, and the Commission on Correctional Peace Officer Standards and Training unless expressly excluded elsewhere in this article.

~~(79) “Grievance” refers to means a written complaint from a claimant containing one or more claims for review by an request from a claimant for review by the Institutional or Regional Office of Grievances that disputes a policy, decision, action, condition, or omission by the department or departmental staff of one or more claims.~~

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

~~(8) “Personal interaction” means direct contact with a claimant, either face-to-face or by writing the claimant directly. Participating in a committee meeting that concerns a claimant or that the claimant attended does not, by itself, constitute personal interaction; nor does signing a memo that applies to a group of individuals or signing a decision letter pursuant to this Article.~~

~~(9) “Policy review” refers to the process used by the department to respond to complaints that departmental policy violates or contradicts an established rule of law or pre-existing policy issued by a higher authority.~~

~~(10) “Reasonable accommodation request” refers to a written request from a claimant for one or more accommodations for review by an Office of Grievances.~~

~~(11) “Reasonable accommodation review” refers to the process used by the department to respond to a written request for one or more accommodations.~~

~~(124) “Reviewing Authority” refers to means the officials identified in subsection 3481(b) who review and approve all “grant” decisions and “denial” decisions as described in subsections 3483(g) and 3485(g) and who are thus oversee the Office of Grievances or Office of Appeals and who is responsible for the overall quality and timeliness of those decisions the written response to each claim raised in a grievance or appeal, respectively.~~

~~(132) “Routine review claim” refers to the process used by the department to respond to allegations of staff misconduct that are not referred for an investigation any complaint submitted by an incarcerated or supervised person that does not involve a claim of staff misconduct as defined in this section.~~

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

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

Existing Section 3481 is repealed and new Section 3481 is adopted.

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

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

~~(b) — Reviewing Authorities.~~

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

- ~~(2) — The Regional Reviewing Authorities authorized to grant or deny routine claims in a grievance submitted by a supervised person shall be of a rank no lower than a Chief Deputy Parole Administrator. The Director of the Division of Adult Parole Operations may also authorize an Assistant Regional Administrator to serve as a Regional Reviewing Authority. This authorization shall be in writing and shall indicate the start date and end date of the assignment.~~
- ~~(3) — The Secretary shall appoint the Reviewing Authority authorized to grant or deny each claim in an appeal submitted by an incarcerated or supervised person, but in no case shall that official be of a rank lower than the Associate Director of the Office of Appeals. The Secretary may also authorize the Associate Warden of the Office of Appeals to serve as a Reviewing Authority. This authorization shall be in writing and shall indicate the start date and end date of the assignment.~~
- ~~(c) — A claimant may choose to informally resolve a claim; however, any attempt to informally resolve a claim does not extend the time for submitting a grievance or an appeal.~~
- ~~(d) — Staff shall not retaliate against a claimant for seeking to informally resolve a claim or for submitting a grievance or appeal.~~
- ~~(e) — A claimant does not have the right to grieve or appeal a policy, decision, action, condition, or omission that was not made by the department or departmental staff but instead was made by an entity or official outside of the department, including, but not limited to, a county jail, a private hospital, the Department of State Hospitals, or the Interstate Commission for Adult Offender Supervision; nor by an entity or official that is quasi-independent of the department, including, but not limited to, the Board of Parole Hearings, the Prison Industry Authority, or the Commission on Correctional Peace Officer Standards and Training. This article does not preclude a claimant from filing a complaint with the outside entity or official.~~
- ~~(f) — CDCR Form 602-1 (Rev. 01/22), "Grievance," hereby incorporated by reference, shall be made available to incarcerated persons in all housing units and in all prison law libraries and to supervised persons at all parole offices statewide.~~
- ~~(g) — When submitting a grievance or appeal, or for purposes of a related interview, if a claimant requests assistance based on a disability, lack of literacy, or need for translation services, or departmental staff detect the need for such assistance, then staff shall provide reasonable accommodations and utilize effective communication techniques as required by the Americans with Disabilities Act, as applicable.~~

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

Section 3481. Claimant's Ability to Submit Grievances, Reasonable Accommodation Requests, and Appeals.

(a) A claimant has the ability to submit one or more claims in a written grievance, a written reasonable accommodation request, or both (subject to the requirements in section 3482). In response, a claimant shall receive a written decision letter (as described in section 3483) clearly explaining the reasoning and the evidence in support of the decision for each claim. A claimant also has the ability to appeal one or more of those decisions (subject to the requirements in section 3484). In response, a claimant shall receive a written decision letter (as described in section 3485) clearly explaining the reasoning and the evidence in support of the decision for each claim.

(b) Reviewing Authorities.

(1) The Warden and Chief Deputy Warden at each institution are the primary Reviewing Authorities for all grievances and reasonable accommodation requests received at that institution. The Warden may authorize one or more Associate Wardens to also serve as Reviewing Authorities.

(2) The Regional Parole Administrator and Chief Deputy Parole Administrator in each region are the primary Reviewing Authorities for all grievances and reasonable accommodation requests

received in that region. The Regional Parole Administrator may authorize one or more Assistant Regional Administrators to also serve as Reviewing Authorities.

(3) The Associate Director of the Office of Appeals shall serve as the primary Reviewing Authority for all appeals and answer them on behalf of the Secretary. The Associate Director may authorize one or more managers in the Office of Appeals to also serve as Reviewing Authorities.

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

(d) Departmental staff shall not retaliate against a claimant for seeking to informally resolve a claim or for submitting a grievance, reasonable accommodation request, or appeal. In addition, staff shall not access grievances, reasonable accommodation requests, or appeals in the department's information technology system unless specifically assigned to respond to a claim or when fulfilling another legitimate business need.

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

(f) Forms.

(1) CDCR Form 602-1/1824 (01/25), the "Grievance/Request for Reasonable Accommodation" form, hereby incorporated by reference, shall be made available to claimants at all housing units, libraries, law libraries, and parole offices statewide, and made available during face-to-face contact upon request.

(2) CDCR Form 602-2 (Rev. 01/25), the "Appeal" form, hereby incorporated by reference, shall be made available to claimants as an attachment to each decision letter issued by an Office of Grievances.

(3) CDCR Form 602-3 (Rev. 01/25), the "Request to Implement Overdue Remedy" form, shall be made available to claimants as an attachment to each decision letter issued by an Office of Grievances or the Office of Appeals containing a remedy.

(g) Prior to submitting forms for review by an Office of Grievances or the Office of Appeals, a claimant may obtain two copies of the documents described in subsection (f) from a library or law library following the procedures described in section 3162; however, the time needed to copy the forms shall not extend the time for submitting that claim in a grievance or an appeal.

(h) Departmental staff shall provide reasonable accommodations and comply with effective communication and documentation requirements if a claimant requests assistance based on a disability, lack of literacy, or need for translation services when submitting a grievance, reasonable accommodation request, or appeal; conducting a related interview; or receiving a decision letter issued by an Office of Grievances or the Office of Appeals. Staff shall do the same if they detect the need for such assistance or the claimant has a documented need for effective communication under the same circumstances.

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

Existing Section 3482 is repealed and new Section 3482 is adopted.

~~3482. Preparation and Submittal of a Grievance.~~

~~(a) — Where to submit a grievance.~~

~~(1) — An incarcerated person who wishes to submit a grievance shall do so in writing to the Institutional Office of Grievances at the prison, or to the Institutional Office of Grievances~~

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

~~(2) — A supervised person who wishes to submit a grievance shall do so in writing to the Regional Office of Grievances in the parole region where they are supervised. Every Regional Parole Administrator, in consultation with the Director of the Division of Adult Parole Operations, shall issue a written advisement to a supervised person within 15 calendar days of the supervised person's release from prison identifying the address where grievances may be mailed, the availability of electronic kiosks or tablets for submitting grievances, and the physical location where grievances may be submitted. Additional local processes and procedures regarding the preparation and submittal of a grievance may be promulgated by the Division of Adult Parole Operations so long as they are consistent with this Article, pursuant to Penal Code section 5058(c)(1).~~

~~(b) — Time constraints.~~

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

~~(2) — The time limit for a supervised person to submit a grievance shall not be extended while the supervised person is on suspended status, meaning the supervised person has absconded.~~

~~(3) — The time constraint to submit a claim shall be extended for the period of time that a claimant is:~~

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

~~(B) — in the care of an outside hospital;~~

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

~~(D) — actively and directly engaged in fire suppression.~~

~~(4) — Regardless of these time constraints, all allegations of staff misconduct shall be referred by the Centralized Screening Team to an appropriate authority within the department for the purpose of gathering facts needed to prove or disprove the allegation and respond to the claimant.~~

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

~~(1) — type or print legibly on an official CDCR Form 602-1 (01/22) or complete the form electronically, if available;~~

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

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

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

~~(5) — sign and date the CDCR Form 602-1 (01/22).~~

- ~~(d) — When completing a CDCR Form 602-1 (01/22), a claimant shall not:~~
- ~~(1) — use threatening, obscene, demeaning, or abusive language, except when quoting persons involved in the claim;~~
 - ~~(2) — include information or accusations known to the claimant to be false; or~~
 - ~~(3) — contaminate the grievance package by including organic, toxic, or hazardous materials that may threaten staff safety or institutional security, in which case the grievance shall be safely discarded and the entire grievance disallowed. The claimant may re-submit the grievance concerning the same claim or claims so long as it is submitted within the time constraints set forth in subsection (b).~~
- ~~(e) — The entire grievance package shall be returned to the claimant with the acknowledgement of receipt described in subsection 3483(c).~~
- ~~(f) — The grievance package submitted by the claimant shall be stored electronically by the department.~~

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

Section 3482. Preparation and Submittal of a Grievance, Reasonable Accommodation Request, or both.

(a) Where to submit a grievance, reasonable accommodation request, or both.

(1) An incarcerated person who wishes to submit a grievance or reasonable accommodation request shall do so in writing to the Office of Grievances at the institution where they are housed. If the claimant is housed at a re-entry facility or fire camp, then they shall submit the grievance or reasonable accommodation request to the Office of Grievances designated for that location. Every Warden shall issue a local rule in compliance with subdivision (c) of section 5058 of the Penal Code, identifying the address where grievances and reasonable accommodation requests may be mailed, the availability of electronic kiosks or tablets for submitting grievances and reasonable accommodation requests, the physical location of all lockboxes where grievances and reasonable accommodation requests may be submitted, and the specific departmental staff permitted to collect grievances and reasonable accommodation requests from those lockboxes. Grievances and reasonable accommodation requests shall be collected from lockboxes at least once per business day by staff not regularly assigned to that housing unit. If a written grievance or reasonable accommodation request is received by staff any other way, then it shall be forwarded to the Office of Grievances where the claimant is housed. Additional local processes and procedures regarding the preparation and submittal of a grievance or reasonable accommodation requests may be promulgated by the Division of Adult Institutions so long as they are consistent with this Article, pursuant to subdivision (c)(1) of section 5058 of the Penal Code.

(2) A supervised person who wishes to submit a grievance or reasonable accommodation request shall do so in writing to the Office of Grievances in the parole region where they are supervised. Every Regional Director, in consultation with the Director of the Division of Adult Parole Operations, shall issue a written advisement no later than 15 calendar days after the claimant begins parole identifying the address where grievances and reasonable accommodation requests may be mailed, the availability of electronic kiosks or tablets for submitting grievances and reasonable accommodation requests, and the physical location of all lockboxes where grievances and reasonable accommodation requests may be submitted. Grievances and reasonable accommodation requests shall be collected from lockboxes at least once per business day. If a written grievance or reasonable accommodation request is received by departmental staff any other way, then it shall be forwarded to the Office of Grievances in the region where the claimant is supervised. Additional local processes and procedures regarding the preparation and submittal of a grievance or reasonable accommodation requests may be promulgated by the Division of Adult Parole Operations so long as they are consistent with this Article, pursuant to subdivision (c)(1) of section 5058 of the Penal Code.

(b) Time constraints.

(1) A claimant shall submit a grievance no later than 60 calendar days after discovering an adverse policy, decision, action, condition, or omission by the department. Discovery occurs when a claimant knew or should have reasonably known of the adverse policy, decision, action, condition, or omission.

(2) The time constraint to submit a grievance shall be extended for the period of time that a claimant is:

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

(B) in the care of an outside hospital;

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

(D) actively and directly engaged in fire suppression.

(3) Grievances deemed untimely shall be rejected pursuant to subsection 3483(g)(6)(A). Even if rejected, all allegations of staff misconduct shall be referred for a routine review or an investigation.

(c) To submit a grievance or reasonable accommodation request, a claimant shall type or print legibly on an official CDCR Form 602-1/1824 or complete the form electronically, if available, and include the following:

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

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

(3) for reasonable accommodation requests, describe the limitation, the cause of the limitation, and the accommodation requested;

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

(5) for grievances and reasonable accommodation requests, sign and date the CDCR Form 602-1/1824.

(d) When submitting a grievance or reasonable accommodation request, a claimant shall not:

(1) use threatening, obscene, demeaning, or abusive language, except when quoting persons involved in the claim;

(2) include information or accusations known to the claimant to be false; or

(3) contaminate the submission by including organic, toxic, or hazardous materials that may threaten staff safety or institutional security, in which case the submission shall be safely discarded and disallowed. The claimant may re-submit the same claim or claims so long as it is submitted within the time constraints set forth in subsection (b).

(e) The entire submission shall be returned to the claimant with the acknowledgement of receipt described in subsection 3483(c).

(f) The entire submission from the claimant shall be stored electronically by the department.

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

Existing Section 3483 is repealed and new Section 3483 is adopted.

3483. Grievance Review.

~~(a) The Reviewing Authority over each Office of Grievances shall designate at least one official to assess each written grievance within one business day of receipt to determine if it~~

~~contains information concerning an imminent risk to personal safety, to institutional security, or of sexual abuse, including acts of sexual misconduct as defined by the federal Prison Rape Elimination Act and the California Sexual Abuse in Detention Elimination Act. In those instances, the official shall immediately take appropriate action as required by all applicable laws and regulations. The official shall ensure the claimant is notified of the department's course of action within five business days. In addition to the above requirements, if the grievance alleges that the claimant's Earliest Possible Release Date (EPRD) is erroneous and the claimant is scheduled to be released within 90 calendar days of the date the grievance was received by the Office of Grievances, then a comprehensive review of the EPRD shall be conducted and the results provided to the claimant within 30 calendar days of receipt of the grievance. Regardless of the above requirements, the grievance Coordinator shall ensure that a written grievance decision is provided to the claimant as required in subsection (g).~~

~~(b) — The grievance Coordinator shall ensure that the intake process as specified in subsection (a) is completed and each grievance is referred to the Centralized Screening Team within three business days of receipt of the grievance.~~

~~(c) — The grievance Coordinator shall acknowledge receipt of each grievance to the claimant in writing within four business days of its receipt indicating the date the grievance was submitted, the date the grievance was received, the calculated date for the department's response, and whether the grievance was disallowed pursuant to subsection 3482(d)(3).~~

~~(d) — The grievance Coordinator shall ensure that all routine claims returned from the Centralized Screening Team to the Office of Grievances are reviewed and answered in accordance with this section.~~

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

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

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

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

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

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

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

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

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

- ~~(4) — “Redirected,” meaning that the claim will be forwarded to the appropriate authority described below because it fits one of the following circumstances:~~
- ~~(A) — An issue concerning medical, dental, or mental health services provided by the Correctional Health Care Services Division or a dispute concerning a policy, decision, action, condition, or omission by the Correctional Health Care Services Division or its staff shall be redirected to that Division;~~
 - ~~(B) — A request for a reasonable accommodation based on a disability shall be redirected to the Institutional or Regional Americans with Disabilities Act coordinator;~~
 - ~~(C) — A request for an interview, item, assistance, or service shall be redirected to a staff member designated by the Hiring Authority for a response;~~
 - ~~(D) — A request for records that is made pursuant to the California Public Records Act or the California Information Practices Act shall be redirected to the Institutional or Regional Public Records Act coordinator;~~
 - ~~(E) — A request regarding institutional placement or search preference pursuant to the Transgender Respect, Agency, and Dignity Act of 2020 shall be redirected to the Prison Rape Elimination Act Compliance Manager;~~
 - ~~(F) — A complaint regarding a classification committee decision about institutional placement pursuant to the Transgender Respect, Agency, and Dignity Act of 2020 shall be redirected to the Departmental Review Board via the Office of Appeals; or~~
 - ~~(G) — An allegation against an incarcerated or supervised person shall be redirected to a staff member designated by the Hiring Authority for a response;~~
- ~~(5) — “Reassigned,” meaning that the claim will be reassigned to the appropriate authority described below because it fits one of the following circumstances:~~
- ~~(A) — A claim involving documents, witnesses, or other facts that are primarily located at another institution or parole region shall be reassigned to the Office of Grievances where the majority of those facts are located, in which case the Office of Grievances that is presented with the reassigned claim shall treat the claim as received on the date that the sending Office of Grievances received it; or~~
 - ~~(B) — A request to implement a remedy shall be reassigned to the Remedies Compliance Coordinator referred to in subsection (j)(2).~~
- ~~(6) — “Rejected,” meaning that the claim will be rejected because it fits one or more of the following circumstances:~~
- ~~(A) — the claimant did not submit the claim within the time constraints required by subsection 3482(b), unless the claim concerns an allegation of staff misconduct;~~
 - ~~(B) — the claim concerns an anticipated policy, decision, action, condition, or omission by the department or departmental staff;~~
 - ~~(C) — the claim is substantially duplicative of a prior claim by the same claimant, unless the prior claim was rejected as anticipatory pursuant to subsection (B);~~
 - ~~(D) — the claim concerns harm to a person other than the person who signed the grievance, unless the claim concerns an allegation of staff misconduct;~~
 - ~~(E) — the claim disputes or contravenes the regulatory framework for the grievance and appeal process itself (specifically, Title 15, Subchapter 5.1, Article 1, Administrative Remedies for Incarcerated and Supervised Persons);~~
- ~~(7) — “Disallowed,” meaning the grievance package will be discarded because it was contaminated with organic, toxic, or hazardous materials that may threaten staff safety or institutional security;~~
- ~~(8) — “Identified as Staff Misconduct,” meaning that the claim involves an allegation of staff misconduct and was referred to the appropriate authority to gather relevant facts, resulting in exhaustion of the administrative remedies process for the claim;~~
- ~~(9) — “Pending Legal Matter,” meaning that the substance of the claim concerns pending litigation by a party other than the claimant (excluding class action litigation), pending legislation,~~

~~or pending regulatory action, resulting in exhaustion of the administrative remedies process for the claim; or~~

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

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

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

~~(j) —Implementation of Remedy~~

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

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

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

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

~~(k) —Additional local processes and procedures may be promulgated by the Division of Adult Institutions and the Division of Adult Parole Operations so long as they are consistent with this Article, pursuant to Penal Code section 5058(c)(1).~~

~~(l) —Exhaustion.~~

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

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

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

3483. Office of Grievances Review and Response.

(a) Initial Review. The Reviewing Authority over each Office of Grievances shall designate at least one official to assess each written grievance and reasonable accommodation request no later than one business day after its receipt.

(1) If it contains information concerning an imminent risk to personal health or safety, to institutional security, or of sexual abuse, including allegations of sexual misconduct as defined by the federal Prison Rape Elimination Act and the California Sexual Abuse in Detention Elimination Act, then the official shall immediately refer the matter to the appropriate authority in the institution or parole region as required by all applicable laws and regulations.

(2) If it contains information suggesting the threat of injury or other serious harm absent an accommodation, then the official shall determine whether an interim accommodation is necessary to mitigate the threat and if so, ensure the interim accommodation is provided no later than five business days after its receipt.

(3) If it contains information suggesting the claimant's Earliest Possible Release Date (EPRD) is wrong and the claimant is scheduled to be released within 90 calendar days of its receipt, then a comprehensive review of the EPRD shall be conducted and the results provided to the claimant no later than 30 calendar days after receipt of the grievance.

(4) If it contains information suggesting the claimant disagrees with the department's refusal to amend a record or file containing personal information pursuant to section 3450, then a comprehensive review of the matter shall be conducted and a final determination provided to the claimant no later than 30 calendar days after receipt as required by section 1798.36 of the Civil Code, unless the official conducting the comprehensive review notifies the claimant that the time period to complete the review was extended by 30 calendar days pursuant to that same section of the Civil Code.

(b) The Grievance Coordinator shall ensure that the intake process described in subsection (a) is completed and each grievance and reasonable accommodation request is referred to the Centralized Screening Team no later than three business days after receipt of the grievance or reasonable accommodation request.

(c) The Grievance Coordinator shall acknowledge receipt of each grievance and reasonable accommodation request to the claimant in writing no later than 14 calendar days after its receipt indicating the date the grievance was submitted, the date the grievance was received, the calculated date for the department's response, and whether the grievance was disallowed pursuant to subsection 3482(d)(3).

(d) The Grievance Coordinator shall ensure that all claims returned from the Centralized Screening Team to the Office of Grievances are reviewed and answered in accordance with subsections (e) through (i) of this section.

(e) Answering a claim.

(1) The Grievance Coordinator shall assign all claims to a Reviewing Authority, who may delegate the claim to any supervisor, for the purpose of gathering relevant facts and recommending whether to grant or deny the claim. If the claim requires a routine review, then the Reviewing Authority who determines whether to grant or deny the claim shall be at least one rank higher than the highest-ranking employee accused of personal interaction resulting in the alleged staff misconduct.

(2) The assigned supervisor shall conduct a complete review of each claim and ensure all relevant evidence, including documents, interviews, and video or audio recordings, are identified, summarized, and preserved.

(3) A claimant or witness shall be interviewed during the course of responding to a grievance if the supervisor responsible for answering the grievance determines it would assist in resolving the claim. The interview shall be conducted in a manner that provides as much privacy for the claimant as operationally feasible. If a claimant is unavailable to be interviewed or refuses to be interviewed, then those facts shall be documented in the department's information technology system.

(4) Suspend and Elevate Process.

(A) If a supervisor assigned to conduct a policy review or a reasonable accommodation review discovers information suggesting the claim involves staff misconduct, then the supervisor shall immediately suspend their activities related to the allegation of staff misconduct and refer the allegation to the Centralized Screening Team to determine if the claim should be elevated to a routine review or an investigation. If elevated to a routine review by the Centralized Screening Team, a new claim shall be opened by the Office of Grievances to answer the allegation of staff misconduct.

(B) If a supervisor assigned to a routine review discovers information suggesting that the claim involves complex issues requiring specialized investigative skills or resources; the claim, if proven true, is likely to result in adverse action; or the claim is similar to previous staff misconduct that was sustained against the departmental staff involved, then the supervisor shall immediately suspend the review and refer the matter to the Centralized Screening Team to determine if the claim should be elevated to an investigation.

(C) If a supervisor assigned to a policy review, reasonable accommodation request review, or routine review discovers information indicating potential staff misconduct unrelated to the original claim, then the supervisor shall submit that information to the Centralized Screening Team.

(5) Upon completion of the review, the supervisor shall document their fact gathering, preserve all supporting documents and recordings in the department's information technology system, and draft a recommended decision letter for consideration by the Reviewing Authority.

(f) The Reviewing Authority shall ensure that any individual whose personal interaction with a claimant forms part of the claim is excluded from participating in the process as to that claim, including any interview of a claimant conducted as part of the process. Signing a decision letter pursuant to subsection (g) does not, by itself, constitute personal interaction.

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

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

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

(1) "Denied," meaning that the Reviewing Authority found by a preponderance of the evidence available that:

(A) for policy reviews, the policy under review was not a violation or contradiction of an established rule of law;

(B) for reasonable accommodation reviews, the accommodation requested was not reasonable pursuant to the Americans with Disabilities Act; or

(C) for routine reviews, the departmental staff were found not to be in violation of applicable rules;

(2) "Granted," meaning that the Reviewing Authority found by a preponderance of the evidence available that:

(A) for policy reviews, the policy under review was in violation or contradiction of an established rule of law, in which case the Reviewing Authority shall order an appropriate remedy;

(B) for reasonable accommodation reviews, the accommodation requested was reasonable pursuant to the Americans with Disabilities Act, in which case the Reviewing Authority shall order an appropriate remedy; or

(C) for routine reviews, the departmental staff were found to be in violation of applicable rules, in which case the Reviewing Authority shall order an appropriate remedy.

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

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

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

(B) A request for assistance, which shall be redirected to departmental staff designated by the hiring authority for a response;

(C) A request for implementation of an overdue remedy, which shall be redirected to the Remedies Compliance Coordinator as described in subsection (j)(2);

(D) A request for records pursuant to the Public Records Act, which shall be redirected to a Public Records Act coordinator;

(E) A request to inspect a record or file containing personal information or to amend a record or file containing personal information pursuant to the Information Practices Act and section 3450 of Subchapter 5 of Article 6, which shall be redirected to a Public Records Act coordinator;

(F) A complaint regarding a decision issued by the Office of Grievances, which shall be redirected to the Office of Appeals;

(G) A complaint against an incarcerated or supervised person, which shall be redirected to departmental staff designated by the hiring authority for a response; or

(H) An allegation of improper conduct by one departmental staff member against another staff member, which shall be redirected to departmental staff designated by the hiring authority;

(5) "Reassigned," meaning that the claim was assigned to a different Office of Grievances than the one which originally received it because the majority of evidence (documents, recordings, or witnesses) is located at the other Office of Grievances, however, regardless of the number of reassignments, the claim shall be treated as if it was received on the date the original Office of Grievances received it;

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

(A) The claimant did not submit the claim within the time constraints required by subsection 3482(b), unless the claim concerns a reasonable accommodation request;

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

(C) The claim is substantially duplicative of a prior claim by the same claimant, unless the claim concerns a reasonable accommodation request and there has been a change in circumstance or the prior claim was rejected as anticipatory pursuant to subsection (B);

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

(E) The claim objects to one of the following:

1. a decision issued by the Office of Appeals;

2. the fact gathering process during a routine review;

3. the fact gathering process during an investigation of staff misconduct;

4. the findings made by a hiring authority at the conclusion of an investigation of staff misconduct;

or

5. the verbal or written statements submitted by departmental staff under penalty of perjury to a court of law or administrative tribunal.

(7) "Disallowed," meaning the submission from the claimant was discarded because it was contaminated with organic, toxic, or hazardous materials that may threaten staff safety or institutional security, in which case the claimant may re-submit the grievance so long as it is submitted within the time constraints set forth in subsection 3482(b);

(8) "Identified as Staff Misconduct," meaning that the claim involved an allegation of staff misconduct which the Centralized Screening Team referred for an investigation;

(9) "Pending Legal Matter," meaning that the substance of the claim falls within the scope of pending litigation (excluding class action litigation), pending legislation, or pending regulatory action; or

(10) "Time Expired," meaning that the Reviewing Authority was not able to respond to the claim within 60 calendar days.

(h) If a claim is rejected as untimely pursuant to subsection (g)(6)(A), then the decision letter shall also include the following dates as determined by the Grievance Coordinator: the date the claim was discovered, the date the claim was submitted, the date the claim was received, and the time constraint for submission of the claim pursuant to subsection 3482(b).

(i) The written decision letter shall be sent to the claimant no later than ten business days after its issuance by the Office of Grievances with a CDCR Form 602-2, Appeal (Rev. 01/25) which is incorporated by reference, attached. If the decision letter contains one or more granted claims, then a CDCR Form 602-3, Request to Implement Overdue Remedy (Rev. 01/25) which is incorporated by reference, shall also be attached.

(j) Implementation of Remedy

(1) If the Reviewing Authority grants a claim, then the corresponding remedy shall be implemented no later than 30 calendar days after the date at the top of the decision letter issued by the Office of Grievances, unless:

(A) the remedy requires the disbursement of funds, in which case the remedy shall be implemented no later than 90 calendar days after the date at the top of the decision letter; or

(B) the remedy requires budget authorization outside the department's existing authority, in which case the remedy shall be implemented no later than one year after the date at the top of the decision letter.

(2) If the remedy has not been implemented within the time period described in the above subsection, then a claimant may submit a CDCR Form 602-3 directly to the Remedies Compliance Coordinator by regular mail sent to the address indicated on the form. Correspondence directed to this address shall not be opened by any departmental staff other than those in the Office of Appeals.

(3) Upon receipt of a CDCR Form 602-3, the Remedies Compliance Coordinator shall contact the relevant Office of Grievances to confirm the remedy was implemented. If the remedy was already implemented, the Grievance Coordinator shall provide the Remedies Compliance Coordinator with documentation confirming the remedy was implemented, including the date it was implemented and the full name and title of the official responsible for implementing it. If the remedy was not yet implemented, the Grievance Coordinator and Remedies Compliance Coordinator shall regularly consult until the remedy is implemented.

(k) Pursuant to subdivision (c)(1) of section 5058 of the Penal Code, additional local processes and procedures may be promulgated by the Division of Adult Institutions and the Division of Adult Parole Operations so long as they are consistent with this Article.

(l) Exhaustion.

(1) Under the following circumstances a claimant may appeal the decision issued by the Office of Grievances, therefore, the administrative remedies process is not yet exhausted:

(A) "denied" and the claimant is dissatisfied with the answer;

(B) "granted" but the claimant is dissatisfied with the answer or the remedy;

(C) "no jurisdiction;"

(D) "redirected;"

(E) "reassigned;"

(F) "rejected;"

(G) "disallowed;" or

(H) "pending legal matter."

(2) Pursuant to section 1798.36 of the Civil Code, if a final determination is provided to the claimant as described in subsection (a)(4), then the administrative remedies process is exhausted. Nevertheless, the claimant may choose to:

(A) waive exhaustion by submitting an appeal pursuant to section 3484; or

(B) file a statement of reasonable length setting forth the reasons for their disagreement which shall be made available to any person or agency as required by section 1798.37 or the Civil Code.

(3) Under the following circumstances a claimant may not appeal the decision issued by the Office of Grievances, therefore, the administrative remedies process is exhausted:

(A) "identified as staff misconduct;" or

(B) "time expired."

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code; and Section 35.107, Title 28, Code of Federal Regulations.

Section 3484. Preparation and Submittal of an Appeal.

Section 3484 is amended.

(a) A claimant who wishes to appeal ~~a the written grievance decision or remedy issued provided by an Institutional or Regional Office of Grievances concerning one or more claims they previously submitted in a grievance~~ shall do so in writing by submitting a CDCR Form 602-2 directly to the Office of Appeals by regular mail sent to the address indicated on the form "Office of Appeals, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, California 95811," or by electronic kiosk or tablet, if available. Correspondence directed to this address shall not be opened by any departmental staff other than those in the Office of Appeals. If a written appeal is received by any other staff, then it shall be forwarded to the Office of Appeals.

(b) Time constraints.

(1) A claimant who wishes to appeal a ~~grievance decision or remedy issued by an Office of Grievances found in subsections 3483(g)(1) through 3483(g)(6)~~ shall submit an appeal no later than within 60 calendar days after the date at the top of the decision letter issued by the Office of Grievances or the date the decision was discovered ~~by the claimant, whichever occurs later in time by the institutional or Regional Office of Grievances.~~ Discovery occurs when a claimant knew or should have reasonably known of the decision or remedy.

(2) ~~The time limit for a supervised person to submit an appeal shall not be extended while on suspended status, meaning the supervised person has absconded.~~

(3) The time constraint to submit an appeal of a claim shall be extended for the period of time that a claimant is:

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

(B) in the care of an outside hospital;

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

(D) actively and directly engaged in fire suppression.

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

(1) type or print legibly on the appeal form an official (CDCR Form 602-2) (Rev. 01/22), "Appeal of Grievance," hereby incorporated by reference, or complete the form electronically, if available;

- (2) describe in detail why the decision issued ~~provided~~ by the Institutional or Regional Office of Grievances is inadequate; and
- (3) sign and date the CDCR Form 602-2.
- (d) When submitting an appeal ~~completing a CDCR Form 602-2~~, a claimant shall not:
- (1) use threatening, obscene, demeaning, or abusive language, except when quoting persons involved in the claim;
 - (2) include information or accusations known to the claimant to be false; ~~or~~
 - (3) contaminate the submission ~~appeal package~~ by including organic, toxic, or hazardous materials that may threaten staff safety or institutional security, in which case the submission ~~appeal~~ shall be safely discarded and the ~~entire appeal~~ disallowed. The claimant may re-submit the ~~appeal concerning the same claim or claims~~ so long as it is submitted within the time constraints set forth in section 3484(b); or
 - (4) include a new claims that was ~~were~~ not included in the original grievance or reasonable accommodation request, in which case the new claim shall be referred to the appropriate Office of Grievances reassigned pursuant to subsection 3485(g)(5)(A).
- (e) The CDCR Form 602-2 shall contain a notification to the claimant that the Office of Appeals has access to will review all of the documents previously submitted by the claimant to the Office of Grievances so re-submitting those documents is not necessary and that any documents attached to the Form 602-2 will not be returned before reaching a decision so none of those documents should be attached to the Form 602-2 submitted to the Office of Appeals, that a copy of the CDCR Form 602-2 will be returned to the claimant with the written appeal decision; but that no other documents submitted by the claimant to the Office of Appeals will be returned.
- (f) The entire appeal package submission ~~submitted from~~ by the claimant shall be stored electronically by the department.

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

Existing Section 3485 is repealed and new Section 3485 is adopted.

3485. Appeal Review.

- (a) ~~The Reviewing Authority for the Office of Appeals shall designate at least one official to assess each written appeal within one business day of receipt to determine if it contains information concerning an imminent risk to personal safety, to institutional security, or of sexual abuse, including acts of sexual misconduct as defined by the federal Prison Rape Elimination Act and the California Sexual Abuse in Detention Elimination Act. In addition, the official shall assess if the grievance alleges that the claimant's Earliest Possible Release Date (EPRD) is erroneous and the claimant is scheduled to be released within 90 calendar days of the date the appeal was received by the Office of Appeals. In all instances described above, the official shall refer the matter to the Institutional or Regional Office of Grievances where the majority of the facts and circumstances that gave rise to the claim occurred to be handled pursuant to subsection 3483(a).~~
- (b) ~~If the Office of Appeals determines that a claim involved staff misconduct and that claim was not referred to the appropriate authority to gather relevant facts according to subsection 3482(b), then the Office of Appeals shall grant that claim and order the Centralized Screening Team to refer the allegation to the appropriate authority to gather relevant facts.~~
- (c) ~~The appeal Coordinator shall acknowledge receipt of each appeal to the claimant in writing within four business days of its receipt indicating the date the appeal was submitted, the date the appeal was received, the calculated date for the department's response, and whether the appeal was disallowed pursuant to subsection 3484(d)(3).~~
- (d) ~~The appeal Coordinator shall ensure that all routine claims appealed by the claimant to the Office of Appeals are reviewed and answered in accordance with this section.~~

~~(e) — The full record of each claim shall be made available to the Office of Appeals for purposes of conducting its reviews. The record shall include the claimant's grievance, the claimant's appeal, both acknowledgment letters, all related interviews conducted for the Institutional or Regional Office of Grievances, any relevant documentation prepared for the Office of Grievances, any records contained in the department's information technology system, and all department rules and memoranda. The record shall not include any new information provided by the claimant to the Office of Appeals that was not made available to the Office of Grievances for their review.~~

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

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

~~(1) — "Denied," meaning that:~~

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

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

~~(2) — "Granted," meaning that:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(E) — the claim disputes or contravenes the regulatory framework for the grievance and appeal process itself (specifically, Title 15, Subchapter 5.1, Article 1, Administrative Remedies for Incarcerated and Supervised Persons);~~

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

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

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

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

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

~~(i) — The written appeal decision shall be sent to the claimant within two business days of completing the written appeal decision letter. If the Reviewing Authority or appeal Coordinator grants a claim, then a copy of the decision shall be simultaneously sent to the appropriate Institutional or Regional Grievance Coordinator.~~

~~(j) — Implementation of remedy.~~

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

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

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

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

~~(k) — Additional local processes and procedures may be promulgated by the Office of Appeals so long as they are consistent with this Article, pursuant to PC section 5058(c)(1).~~

~~(l) — Exhaustion.~~

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

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

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

Section 3485. Office of Appeals Review and Response.

(a) Initial Review. The Reviewing Authority for the Office of Appeals shall designate at least one official to assess each written appeal no later than one business day after its receipt and determine if it contains information concerning an imminent risk to personal health or safety, to institutional security, or of sexual abuse, including allegations of sexual misconduct as defined by the federal Prison Rape Elimination Act or the California Sexual Abuse in Detention Elimination Act. If an imminent risk is detected, the official shall immediately refer the matter to the Office of Grievances to be handled pursuant to subsection 3483(a), unless the official determines that the Office of Grievances already detected the matter.

(b) If the Office of Appeals receives a claim on appeal and determines that the Centralized Screening Team failed to identify an allegation of staff misconduct, then the Office of Appeals shall grant the claim and order the Centralized Screening Team to refer the allegation for a routine review or investigation.

(c) The Appeal Coordinator shall acknowledge receipt of each appeal to the claimant in writing no later than 14 calendar days after its receipt indicating the date the appeal was submitted, the date the appeal was received by the Office of Appeals, the calculated date for the department's response, and whether the appeal was disallowed pursuant to subsection 3484(d)(3).

(d) The Appeal Coordinator shall ensure that all claims are reviewed and answered in accordance with subsections (e) through (i) of this section.

(e) All of the information gathered for the purpose of answering a grievance or reasonable accommodation request, including interviews, documents, and video or audio recordings, shall be made available to the Office of Appeals for its review. If not already preserved in the department's information technology system, the Office of Grievances shall ensure the information is provided to the Office of Appeals and added to the system.

(f) The Reviewing Authority shall exclude any individual whose personal interaction with the claimant forms part of the claim from participating in the process as to that claim. If the individual in question is the Associate Director of the Office of Appeals, then the Director from the Division of Correctional Policy Research and Internal Oversight shall serve as the Reviewing Authority for that claim. Signing a decision letter pursuant to subsection (g) does not, by itself, constitute personal interaction.

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

(1) "Denied," meaning that the Reviewing Authority found by a preponderance of the evidence available that the decision by the Office of Grievances was proper;

(2) "Granted," meaning that the Reviewing Authority found by a preponderance of the evidence available that the decision by the Office of Grievances was not proper, in which case the Reviewing Authority shall order an appropriate remedy;

(3) "Remanded," meaning that the departmental staff failed to clearly explain the reasoning in support of a decision, failed to preserve the evidence relied on to reach a decision, or failed to apply the correct burden of proof in a decision, in which case the Office of Appeals shall order the Office of Grievances to re-examine the claim and issue a new decision letter no later than 30 calendar days after the date at the top of the decision letter issued by the Office of Appeals;

(4) "Overlooked," meaning that the claim was submitted in a grievance or reasonable accommodation request but not answered as required by subsection 3481(a), so the Office of Appeals logged the claim and assigned it to the Office of Grievances where a majority of the facts and circumstances that gave rise to the claim occurred;

(5) "Bypassed," meaning that the claim was not submitted in a grievance or reasonable accommodation request as required by subsection 3482(a), so the Office of Appeals logged the claim and assigned it to the Office of Grievances where a majority of the facts and circumstances that gave rise to the claim occurred;

(6) "Rejected," meaning that the claimant did not submit the claim within the time constraints required by subsection 3484(b) or the claim was correctly "rejected" by the Office of Grievances pursuant to subsection 3483(g)(6)(A)-(D);

(7) "Disallowed," meaning the submission from the claimant was discarded because it was contaminated with organic, toxic, or hazardous materials that may threaten staff safety, in which case the claimant may re-submit the grievance so long as it is submitted within the time constraints set forth in subsection 3482(b);

(8) "Previously Identified as Staff Misconduct," meaning that the claim was referred for an investigation by the Centralized Screening Team and may not be appealed pursuant to subsection 3483(l)(2);

(9) "Remedy Referred," meaning that the substance of the claim concerns implementation of a remedy and, as a result, shall be referred to the Remedies Compliance Coordinator; or

(10) "Time Expired," meaning that the Reviewing Authority was not able to respond to the claim within 60 calendar days, in which case the grievance level decision shall serve as the department's final decision.

(h) If a claim is rejected as untimely pursuant to subsection (g)(6), then the decision letter shall also include the following dates as determined by the Appeal Coordinator: the date the claim was discovered, the date the claim was submitted, the date the claim was received, and the time constraint for submission of the claim pursuant to subsection 3484(b).

(i) The written decision letter shall be sent to the claimant no later than five business days after its issuance by the Office of Appeals. If the decision letter contains one or more granted claims, then a copy of the CDCR Form 602-3 shall also be attached. If the Reviewing Authority grants a claim, then notice of the decision shall be sent to the appropriate Grievance Coordinator. If the Office of Appeals grants an appeal and orders an Office of Grievances to open a new grievance to address the claim, then the Office of Grievances shall treat the claim as received on the date at the top of the decision letter issued by the Office of Appeals.

(j) Implementation of Remedy.

(1) If the Office of Appeals grants a claim, then the Office of Grievances shall ensure that the corresponding remedy is implemented no later than 30 calendar days after date at the top of the decision letter issued by the Office of Appeals, unless:

(A) the remedy requires the disbursement of funds, in which case the remedy shall be implemented no later than 90 calendar days after the date at the top of the decision letter; or

(B) the remedy requires budget authorization outside the department's existing authority, in which case the remedy shall be implemented no later than one year after the date at the top of the decision letter.

(2) If the remedy has not been implemented and the applicable time constraint has passed, then the claimant may submit a CDCR Form 602-3 directly to the Remedies Compliance Coordinator by regular mail sent to the address indicated on the form. Correspondence directed to this address shall not be opened by any departmental staff other than those in the Office of Appeals.

(3) Upon receipt of a CDCR Form 602-3, the Remedies Compliance Coordinator shall contact the relevant Office of Grievances to confirm the remedy was implemented. If the remedy was already implemented, the Grievance Coordinator shall provide the Remedies Compliance Coordinator with documentation confirming the remedy was implemented, including the date it was implemented and the full name and title of the official responsible for implementing it. If the remedy was not yet implemented, the Grievance Coordinator and Remedies Compliance Coordinator shall regularly consult until the remedy is implemented.

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

(l) Exhaustion.

(1) Under the following circumstances a claimant will receive a subsequent answer from the department, therefore, the administrative remedies process is not yet exhausted:

(A) "denied" because the Office of Grievances correctly redirected, reassigned, or disallowed the claim;

(B) "granted" and the claim is returned to the Office of Grievances for re-consideration and issuance of a new decision;

(C) "remanded;"

(D) "overlooked;"

(E) "bypassed;"

(F) "disallowed;"

(G) "remedy referred;" or

(H) "time expired" and the Office of Grievances redirected, reassigned, or disallowed the claim.

(2) If a claim is "denied" because a claimant failed to write legibly enough for the Office of Appeals to understand the issue on appeal as required in subsection 3484(c)(1) or a claimant failed to describe clearly enough why the decision by the Office of Grievances was inadequate as required in subsection 3484(c)(2), then the administrative remedies process was not exhausted.

(3) If a claim is "rejected" because a claimant failed to comply with the time constraints found in subsection 3484(b) or because the Office of Grievances correctly "rejected" the claim under subsection 3483(g)(6)(A)-(D), then the administrative remedies process was not exhausted.

(4) Under the following circumstances a claimant will not receive any further answer from the department, therefore, the administrative remedies process is exhausted:

(A) "denied" on the merits or due to a lack of jurisdiction;

(B) "granted" and the claim is not returned to the Office of Grievances for re-consideration and issuance of a new decision;

(C) "previously identified as staff misconduct;" or

(D) "time expired" and the Office of Grievances denied the claim or screened it out due to a lack of jurisdiction.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 832.5 and 5054, Penal Code; and Section 35.107, Title 28, Code of Federal Regulations.

Section 3486. Allegations of Staff Misconduct Toward an Incarcerated or Supervised Person.

Section 3486 is amended.

(a) Right to submit claim ~~complaint~~ alleging staff misconduct toward an incarcerated or supervised person.:

(1) The provisions of this Article shall apply to all allegations of staff misconduct received by the Department of Corrections and Rehabilitation on or after January 1, 2025.

~~(2.4)~~ Any person can submit a claim ~~complaint~~ alleging of staff misconduct toward an incarcerated or supervised person 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) CDCR Form 602-1, Grievance, (Rev. 01/22), which is incorporated by reference, may be submitted by incarcerated and supervised persons pursuant to sections 3482(a)(1) and 3482(a)(2) respectively.~~

~~(B) CDCR Form 602-HC, Health Care Grievance, (Rev. 07/24), which is incorporated by reference, may be submitted by incarcerated and supervised persons pursuant to section 3999.226(a).~~

~~(C) Citizen's complaints shall be submitted in writing pursuant to section 3417.~~

~~(3.2)~~ Staff shall not retaliate against a claimant ~~reporting party~~ or witness for submitting a claim ~~complaint~~ or reporting an allegation of staff misconduct.

~~(4.3)~~ As provided in this Article, and Article 2 of Subchapter 5, the department shall ensure all claims ~~complaints~~ of staff misconduct are properly documented consistent with section 3486.1, subsections (c) and (d).

~~(b) If a complaint alleging staff misconduct is submitted on a CDCR Form 1824, Reasonable Accommodation Request, (Rev. 07/24), which is incorporated by reference, it will be processed pursuant to sections 3482(a)(1) and 3482(a)(2).~~

~~(b.6)~~ Definitions. For purposes of this Article and Article 1 of this Subchapter, the following definitions shall apply: ~~Definitions~~ For purposes of this article, the following definitions shall apply:

~~(1) "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.~~

~~(2) "Allegation Inquiry Report" refers to the confidential report prepared by an LDI following an Allegation Inquiry.~~

~~(3) "Allegation Investigation Unit" (AIU) refers to the unit within the Office of Internal Affairs (OIA) that conducts investigations into complaints alleging misconduct toward incarcerated and supervised persons as set forth in section 3486.2, and reviews allegation inquiry reports completed by LDIs.~~

~~(4) "AIU Investigator" refers to an investigator within the AIU assigned to conduct a confidential investigation.~~

~~(5) "Armstrong class member" refers to an incarcerated person who is a class member under the federal court decree in *Armstrong v. Newsom* (previously: *Armstrong v. Schwarzenegger*).~~

~~(16) "Centralized Screening Team" (CST) refers to the entity that reviews documentation team responsible for screening all grievances, reasonable accommodation requests, and allegations of staff misconduct, and then routing the claim, to determine if the documentation contains a Routine~~

~~Issue, alleges misconduct toward an incarcerated or supervised person, or alleges misconduct not involving an incarcerated or supervised person.~~

~~(27) “Clarification Interview” refers to an interview conducted by CST staff when clarification is required to make a screening decision.~~

~~(8) “Complaint” refers to any documentation or verbal statements received by the Department from any source that contains a routine issue or alleges Staff Misconduct.~~

~~(9) “Reporting Party” refers to the person making a complaint against departmental staff.~~

~~(10) “Department” and “Departmental Staff” refer exclusively to CDCR employees, contractors, and volunteers.~~

~~(344) “Designated Case” refers to a case assigned to an attorney in the Employment Advocacy and Prosecution Team (EAPT), Vertical Advocate (VA).~~

~~(12) “Disabled Incarcerated Persons” as used in Article 1.5, Staff Misconduct Allegations, refers to all *Armstrong* class members, and incarcerated persons in the Mental Health Services Delivery System at the Enhanced Out Patient level of care or higher (i.e., Psychiatric Inpatient Program and Mental Health Crisis Bed).~~

~~(443) “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.~~

~~(544) “Hiring Authority” has the same meaning in this Article as in subsection 3392(a)(12).~~

~~(645) “Investigation” refers to the gathering of facts and evidence by an OIA AIU Investigator concerning an allegation of staff misconduct.~~

~~(16) “Investigation Assignment Decision” refers to the decision made by the AIU manager identifying the level of AIU investigator to be assigned to conduct an investigation.~~

~~(7) “Investigator” refers to a specially trained employee assigned to conduct a staff misconduct investigation.~~

~~(847) “Investigative Report” refers to the confidential report prepared by an OIA AIU investigator following an investigation.~~

~~(18) “Locally Designated Investigator” refers to departmental staff trained by OIA to collect evidence and conduct Allegation Inquiries.~~

~~(949) “Office of Internal Affairs” (OIA) refers to an the entity with authority to investigate allegations of employee misconduct.~~

~~(20) “Routine Issue” refers to any complaint received by CST that is not identified as an allegation of Staff Misconduct.~~

~~(21) “Screening Decision” refers to the decision made by the CST of whether a complaint contains a Routine Issue, allegation(s) of staff misconduct toward an incarcerated or supervised person, or allegation(s) of staff misconduct not related to an incarcerated or supervised person. If the complaint contains allegation(s) of staff misconduct toward an incarcerated or supervised person which include complex issues requiring specialized investigative skills or resources, CST shall refer the allegations to AIU for investigation. If the complaint contains allegation(s) of staff misconduct toward an incarcerated or supervised person which do not include complex issues requiring specialized investigative skills or resources, CST shall refer the allegations to the hiring authority for an Allegation Inquiry.~~

~~(1022) “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.~~

~~(23) “Third Party” refers to a person or persons not directly involved in the incident or interaction that resulted in the allegation of staff misconduct.~~

~~(1124) “Vertical Advocate” (VA) refers to an EAPT attorney who provides legal advice to the department during investigations and the employee discipline process for designated cases, and represents the department at administrative hearings and during any subsequent writ or appellate proceedings.~~

~~(d) Implementation The provisions of this Article shall apply to staff misconduct complaints received by the department as follows:~~

~~(1) Allegations of staff misconduct toward an incarcerated or supervised person involving Use of Force and Prison Rape Elimination Act (PREA) complaints for all facilities and parole regions statewide, shall be referred to AIU (formerly known as AIMS) for an allegation inquiry.~~

~~(2) CDCR Form 602-1, Grievances, (Rev. 01/22) for all facilities and parole regions statewide shall be screened by CST, and allegations of staff misconduct toward an incarcerated or supervised person requiring specialized investigative skills or resources as described in subsection 3486(c)(21), shall be referred to AIU (formerly known as AIMS) for an allegation inquiry.~~

~~(3) CDCR Form 602-1, Grievances for all facilities and parole regions statewide shall be screened by CST, and allegations of staff misconduct toward an incarcerated or supervised person not requiring specialized investigative skills or resources as described in subsection 3486(c)(21), will be referred to the Hiring Authority for assignment to an LDI for an allegation inquiry, unless CST refers to AIU (formerly known as AIMS) for an allegation inquiry.~~

~~(4) For the following institutions, allegations of staff misconduct toward an incarcerated or supervised person contained in a CDCR Form 602-1, as set forth in subsection 3486.1(h):~~

~~(A) Richard J Donovan;~~

~~(B) California State Prison, Los Angeles County;~~

~~(C) California State Prison, Corcoran;~~

~~(D) Substance Abuse Treatment Facility;~~

~~(E) Kern Valley State Prison; and~~

~~(F) California Institution for Women.~~

~~(5) For allegations of staff misconduct toward an incarcerated or supervised person, contained in a CDCR Form 602-1 at the following institutions, assigned to an LDI for an allegation inquiry, the allegation inquiry report shall be reviewed and approved as set forth in subsection 3486.2(c)(4):~~

~~(A) Richard J Donovan;~~

~~(B) California State Prison, Los Angeles County;~~

~~(C) California State Prison, Corcoran;~~

~~(D) Substance Abuse Treatment Facility;~~

~~(E) Kern Valley State Prison; and~~

~~(F) California Institution for Women.~~

~~(6) For CDCR Form 602 HC, Health Care Grievances, (Rev. 07/24); CDCR Form 1824, Reasonable Accommodation Requests, (Rev. 07/24); and all Third Party Complaints (e.g., citizen complaints, staff, ombudsman, advocacy letters and any related interviews, etc.) that contains an allegation of staff misconduct towards an *Armstrong* Class Member at the Richard J Donovan Correctional Facility, and disabled incarcerated persons as defined in section 3486(b)(13) at the following institutions, shall be reviewed by the institution and if the complaint contains an allegation of staff misconduct toward an incarcerated or supervised person, the institution shall refer the complaint to CST for screening and disposition as set forth in subsections 3486.1(h) and 3486.2(c)(4):~~

~~(A) California State Prison, Los Angeles County;~~

~~(B) California State Prison, Corcoran;~~

~~(C) Substance Abuse Treatment Facility;~~

~~(D) Kern Valley State Prison; and~~

~~(E) California Institution for Women.~~

~~(7) Beginning on January 1, 2023, for allegations of staff misconduct toward an incarcerated or supervised person, contained in a CDCR Form 602-1, assigned to an LDI for an allegation inquiry, the allegation inquiry report shall be reviewed and approved as set forth in subsection 3486.2(c)(4).~~

~~(8) Beginning on March 1, 2023, allegations of staff misconduct toward an incarcerated or supervised person from all institutions and parole regions, contained in a CDCR Form 602-1, requiring specialized investigative skills or resources as described in subsection 3486(c)(21), shall be referred to AIU for investigation as set forth in subsection 3486.2(b).~~

~~(9) Beginning on May 31, 2023, CDCR Form 602-HC, Health Care Grievances from all institutions and parole regions, shall be referred to CST for screening and disposition as set forth in subsections 3486.1(h) and 3486.2(c)(4).~~

~~(10) Beginning on August 31, 2023, CDCR Form 1824, Reasonable Accommodation Requests from all institutions and parole regions, shall be referred to CST for screening and disposition as set forth in subsections 3486.1(h) and 3486.2(c)(4); and~~

~~(11) Beginning on November 30, 2023, Third Party Complaints (e.g., citizen complaints, staff, ombudsman, advocacy letters and any related interviews, etc.) shall be referred to CST for screening and disposition as set forth in subsections 3486.1(h) and 3486.2(c)(4).~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW; *Madrid v. Woodford*, Special Masters Final Report Re: Department of Corrections Post Powers Investigations and Employee Discipline; Case No. C90-3094-T.E.H; *Madrid v. Woodford*, Order; and Case No. C90-3094-T.E.H. Class Action.

Section 3486.1. Centralized Screening.

Section 3486.1 is amended.

(a) If departmental staff receives a written claim ~~complaint~~ from a claimant ~~reporting party~~ alleging staff misconduct toward an incarcerated or supervised person, the departmental staff receiving the claim ~~complaint~~ shall refer the claim ~~complaint~~ to the Centralized Screening Team (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) Allegations of staff misconduct not involving an incarcerated or supervised person shall not be referred to CST. If a claim ~~complaint~~ is received by CST that does not contain allegations involving misconduct towards an incarcerated or supervised person, CST shall refer the claim ~~complaint~~ to the ~~Hiring Authority for disposition~~.

(c) ~~Claims-Complaints~~ of misconduct not involving departmental staff.

(1) If a hiring authority receives a claim ~~complaint~~ of misconduct, that does not involve departmental staff, the hiring authority shall advise the claimant ~~reporting party~~ that the subject of the claim ~~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 and the California Sexual Abuse in Detention Elimination Act., the claimant ~~reporting party~~ shall be advised to file a claim ~~complaint~~ directly with the appropriate outside entity.

(3) For allegations of sexual abuse or sexual misconduct as defined by PREA and the California Sexual Abuse in Detention Elimination Act, the hiring authority receiving the claim ~~complaint~~ shall notify the appropriate outside entity of the allegations as required by law, and inform the claimant ~~reporting party~~ of this referral.

(d) ~~Verbal Claims Complaints~~

(1) Departmental staff shall document in writing any verbal claims ~~complaints~~ received that involve an allegation that an incarcerated or supervised person was subject to unnecessary or excessive use of force, staff on offender sexual misconduct or sexual abuse, including acts of sexual misconduct as defined by the federal Prison Rape Elimination Act and the California Sexual

~~Abuse in Detention Elimination Act, or sexual harassment.~~ If either of the above circumstances apply, ~~The departmental staff receiving the complaint shall refer the claim complaint to CST if it involves a staff on offender claim, and immediately forward the claim complaint to their hiring authority.~~ If the subject of the claim complaint is a hiring authority, the allegation shall be referred to the hiring authority's supervisor.

(2) For all other verbal claims complaints, departmental staff shall provide the reporting party with information on how to submit their claim complaint in writing.

(e) The CST shall review all claims it complaints received that involve an incarcerated or supervised person and make one of the following a Screening Decisions:

(1) Claims challenging departmental policy shall be referred to the Office of Grievances for a policy review;

(2) Claims requesting a reasonable accommodation shall be referred to the Office of Grievances for a reasonable accommodation review.

(3) Allegations of staff misconduct which include complex issues requiring specialized investigative skills or resources shall be referred for an investigation;

(4) Allegations of staff misconduct which do not include complex issues requiring specialized investigative skills or resources shall be referred to the Office of Grievances for a routine review;

or

(5) Notwithstanding subsections (1) through (4) above, claims related to health care services or staff, excluding allegations of staff misconduct referred for investigation, shall be referred to the Division of Health Care Services.

(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 of the affected institution or program for appropriate action.

(g) The CST may conduct a clarification interview if required to make a screening decision. The clarification interview shall be conducted in a manner that provides as much privacy for the claimant as operationally feasible.

~~(h) When an allegation of staff misconduct toward an incarcerated or supervised person is identified by CST, CST shall make a screening decision. If CST's screening decision is to refer the complaint to the hiring authority for an allegation inquiry, and the subject of the complaint is the hiring authority, CST shall refer the allegation(s) to the hiring authority's supervisor.~~

~~(i) If CST returns a complaint to the hiring authority as a routine issue, and the hiring authority identifies an allegation of staff misconduct towards an incarcerated or supervised person, the hiring authority shall refer the complaint and any supporting materials to CST for a screening decision.~~

~~(h j)~~ CST's Screening Decision shall be documented in the department's information technology system.

~~(i k)~~ The hiring authority shall be notified of CST's screening decision via the department's information technology system.

~~(l) The reporting party shall be notified in writing that their complaint has been received by CST within thirty (30) calendar days of receipt.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644 and 5054, Penal Code; 28 CFR Part 115, Code of Federal Regulations; Armstrong et al. v. Newsom et al., United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW; Madrid v. Woodford, Special Masters Final Report Re: Department of Corrections Post Powers Investigations and Employee Discipline; Case No. C90-3094-T.E.H; Madrid v. Woodford, Order; and Case No. C90-3094-T.E.H. Class Action.

Section 3486.2. Staff Misconduct Investigations and Allegation Inquiries Involving Misconduct toward Incarcerated or Supervised Persons.

Section 3486.2 is amended.

(a) ~~AIU~~ Investigation Processing.

(1) Upon receipt of a ~~claim~~ ~~complaint~~ from CST, ~~OIA~~ ~~AIU~~ staff shall analyze the ~~claim~~ ~~complaint~~, obtain initial information including records, documents, evidence, or recordings relating to the ~~claim~~ ~~complaint~~, and assemble an investigation file.

(2) ~~An AIU manager shall review the investigation file to determine the level of investigator to be assigned, and make an Investigation Assignment Decision~~ in consultation with EAPT for designated cases.

(b) ~~AIU~~-Staff Misconduct Investigations.

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

(2) ~~AIU investigators shall~~ When an investigator is assigned a case, they shall disclose if they have a potential conflict of interest in the case prior to conduct an investigation investigating for all the allegations of staff misconduct toward incarcerated or supervised persons referred to AIU by CST. If a potential conflict is disclosed then a manager shall determine whether a conflict exists and, if so, shall assign the case to another investigator.

(3) Completion of Investigations.

(A) ~~When AIU investigators shall conduct thorough investigations, they shall and ensure that all relevant evidence is gathered and reviewed, recordings are preserved, and necessary interviews are conducted.~~

(B) At the conclusion of an investigation, the assigned ~~AIU~~ investigator shall prepare a confidential ~~draft investigative~~ ~~on~~ report which summarizes the facts and evidence gathered during the investigation.

(4) Closure of Investigation Based on Special Conditions.

(A) The investigator may recommend an investigation be closed when one of the following special conditions is met:

1) Review of video and audio recordings provides conclusive evidence that the alleged misconduct did not occur; or

2) No additional investigatory steps can be pursued due to the lack of specificity provided by the claimant and the claimant's refusal to cooperate with the investigator's efforts to obtain additional information.

(B) If the investigator determines that one of the special conditions contained in subsection (A) apply, the investigator shall document and forward their recommendation to a manager and, if the case is designated, to the assigned VA. Thereafter:

1) If the case is designated and the manager and VA concur that one of the special conditions apply, then the manager shall approve the recommendation to close the investigation, and notify the hiring authority of the decision.

2) If the case is not designated and the manager concurs that one of the special conditions apply, then the manager shall refer the case to the OIA regional administrator to review. If the OIA regional administrator concurs, then the manager shall notify the hiring authority of the decision.

3) If the case is designated and the manager or the VA do not concur that one of the special conditions apply, then the manager shall refer the investigation back to the investigator for further investigation.

(C) After receiving notification, if the hiring authority:

1) Does not concur that one of the special conditions apply or determines additional investigation is warranted, then the hiring authority shall refer the investigation back to the investigator for further investigation.

2) Concurs that one of the special conditions apply and determines additional investigation is not warranted, then the hiring authority shall notify the subject of the investigation and the claimant that the investigation was closed.

(5.4) Investigative Report Review.

(A) An AIU manager shall review the draft ~~investigative~~ 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 ~~investigative~~ Report and all supporting exhibits and recordings, and provide feedback to the assigned investigator AIU.

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

(D) If the hiring authority finds the investigation insufficient to determine a finding for each allegation, they shall request additional investigation in accordance with section 3392.5(c).

(E) If the hiring authority finds the investigation sufficient to determine a finding for each allegation, they shall do so in accordance with section 3392.1.

~~(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 which requires investigative skills or resources as described in subsection 3486(c)(21), 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 AIU for an investigation with notification to the hiring authority.~~

~~2. If the LDI finds evidence of staff misconduct which may not require investigative skills or resources as described in subsection 3486(c)(21), but which 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 AIU for investigation or request for direct adverse action. 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 applicable supporting exhibits, and provide the draft report to the AIU manager for review and approval.~~

~~(4) Allegation Inquiry Report Review.~~

~~(A) An AIU 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 AIU manager, the Allegation Inquiry Report shall be provided to the hiring authority.~~

~~(C) If the hiring authority finds the allegation inquiry insufficient to determine a finding for each allegation, they shall request additional fact gathering either by inquiry or investigation.~~

~~(D) If the hiring authority finds the allegation inquiry sufficient to determine a finding for each allegation, they shall do so in accordance with section 3392.1.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Armstrong et al. v. Newsom et al., United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW; Madrid v. Woodford, Special Masters Final Report Re: Department of Corrections Post Powers Investigations and Employee Discipline; Case No. C90-3094-T.E.H; Madrid v. Woodford, Order; and Case No. C90-3094-T.E.H. Class Action.

Section 3486.3. ~~Staff Misconduct Determination~~ Notification of Investigative Findings.

Section 3486.3 is amended.

(a) For allegations of staff misconduct requiring an investigation, the hiring authority shall notify the claimant, in writing, of the investigative findings no later than thirty (30) calendar days after the hiring authority makes disciplinary findings as described in subsection 3486.2(b)(5)(E). The hiring authority shall notify the reporting party, in writing, of the finding(s) of the original complaint within thirty (30) calendar days of the determination of the disposition of the complaint.

(1) The notification of the findings regarding the staff misconduct ~~claim~~ complaint shall be limited to whether the original ~~claim~~ complaint is sustained, not sustained, exonerated, unfounded, or no finding.

(2) Information related to any personnel action shall not be conveyed to the reporting party in the matter.

(b) The department's information technology system shall be updated to reflect all determinations made regarding the allegation of staff misconduct.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Armstrong et al. v. Newsom et al., United States District Court for the Northern District of California, Court Case number 94-cv-02307-CW; Madrid v. Woodford, Special Masters Final Report Re: Department of Corrections Post Powers Investigations and Employee Discipline; Case No. C90-3094-T.E.H; Madrid v. Woodford, Order; and Case No. C90-3094-T.E.H. Class Action.

NAME (Print)	(LAST NAME)	(FIRST NAME)	CDCR NUMBER
INSTITUTION OR PAROLE REGION			HOUSING AND BED NUMBER

*** YOU CAN NOW FILE A GRIEVANCE OR REQUEST A REASONABLE ACCOMMODATION BY COMPLETING THIS FORM ***

If you are submitting a grievance, an allegation of staff misconduct, or an allegation of disability-based discrimination, please complete the section below and sign and date the form.

GRIEVANCE (CDCR FORM 602-1)
Please describe your complaint. Include the names of all those who were involved; any attempts to informally resolve the issue; and any related log numbers for documents in your central file.

Date of Event, if known: _____Time of Event, if known: _____

Location of Event, if known: _____

Describe your complaint: _____

If you need more space, continue on the back of this form

If you are requesting assistance or an accommodation so you can access or participate in a program, service, or activity, or want to report the removal or denial of an accommodation due to disability-based discrimination, please complete the section below and sign and date the form.

REASONABLE ACCOMMODATION REQUEST (CDCR FORM 1824)
Please answer the following questions:

1. What can't you do / What is the problem?

2. Why can't you do it?

3. What do you need?

If you need more space, continue on the back of this form

Your Signature: _____Date Signed: _____

STAFF USE ONLY

Date Received: _____Log Number: _____

STAFF USE ONLY

Log No: _____
Claimant Name: _____
CDCR No. _____

STAFF USE ONLY

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

Do not include new claims on this form. All claims must first be filed on a CDCR Form 602-1/1824.

Log No: _____ Claim No: _____

I am dissatisfied with the decision or remedy because: _____

This form must be mailed to the:
Office of Appeals
Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 95811

IMPORTANT:

When reviewing your appeal, the Office of Appeals has access to all of the documents you submitted to the Office of Grievances so it is not necessary for you to re-submit those documents.

Any documents you attach to this form will not be returned to you.

Claimant Signature: _____

Date Signed: _____

I am dissatisfied with the decision or remedy because: _____

STAFF USE ONLY

Log No: _____

Claimant Name: _____

CDCR No. _____

STAFF USE ONLY

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

Do not include new claims on this form. All claims must first be filed on a CDCR Form 602-1/1824.

Log No: _____

Claim No. _____ was not satisfactory because _____

Claim No. _____ was not satisfactory because _____

Claim No. _____ was not satisfactory because _____

This form a i ghVY'mailYX to the:
Office of Appeals
Remedies Compliance Coordinator
Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 95811

IMPORTANT:

This form is only intended to resolve delays in the implementation of a remedy issued by the Office of Grievances or the Office of Appeals, not to dispute a remedy or submit a new claim.

Any documents you attach to this form will not be returned to you.

Claimant Signature: _____

Date Signed: _____

[illegible]

REASONABLE ACCOMMODATION REQUEST
CDCR 1824 (Rev. 07/24)
REPEAL

Page 1 of 1

INSTITUTION (Staff use only)	LOG NUMBER (Staff Use Only)	DATE RECEIVED BY STAFF:	
*****TALK TO STAFF IF YOU HAVE AN EMERGENCY***** DO NOT use a CDCR 1824 to request health care or to appeal a health care decision. This may delay your access to health care. Instead, submit a CDC 7362 or a CDCR 602-HC			
INCARCERATED PERSON'S NAME (Print)	CDCR NUMBER	ASSIGNMENT	HOUSING
INSTRUCTIONS: <ul style="list-style-type: none"> • 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?			
<i>(Use the back of this form if more space is needed)</i>			
DO YOU HAVE DOCUMENTS THAT DESCRIBE YOUR DISABILITY? Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure <input type="checkbox"/>			
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.			
_____ INCARCERATED PERSON'S SIGNATURE		_____ DATE SIGNED	
Assistance in completing this form was provided by:			
_____ Last Name	_____ First Name	_____ Signature	

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

Claimant Name: _____ CDCR #: _____

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

STAFF USE ONLY

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

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

OGT Log No: _____ Claim No: _____

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

I am dissatisfied with the response I was given because _____

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

IMPORTANT:

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

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

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

Claimant Signature: _____

Date Signed: _____

I am dissatisfied with the response I was given because _____

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Date Signed: _____

STAFF MISCONDUCT, EMPLOYEE DISCIPLINE, AND ADMINISTRATIVE REMEDIES – EMERGENCY REGULATIONS

FINDING OF EMERGENCY (Government Code section 11346.1(b)(2))

AUTHORITY AND REFERENCE CITATIONS

(Government Code section 11346.5(a)(2))

Pursuant to the authority granted by Government Code section 12838.5, Penal Code section 5055, and the rulemaking authority granted by Penal Code sections 5058 and 5058.3 (in order to implement, interpret and make specific Penal Code section 5054), the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend sections 3450, 3480, 3484, 3486, 3486.1, 3486.2, 3486.3, 3392, 3392.1, 3392.3, 3392.5, 3392.8, and 3392.9; and repeal and adopt sections 3481, 3482, 3483, and 3485, in the California Code of Regulations (CCR), Title 15, Division 3, concerning staff misconduct, employee discipline, and administrative remedies of grievances and appeals.

Penal Code section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections, in this or any other code, refers to the California Department of Corrections and Rehabilitation.

Penal Code 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 California Department of Corrections and Rehabilitation.

Penal Code 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 California Department of Corrections and Rehabilitation.

Penal Code section 5058 authorizes the Secretary of the California Department of Corrections and Rehabilitation to prescribe and amend regulations for the administration of prisons.

Penal Code section 5058.4(a) requires the Secretary of the California Department of Corrections and Rehabilitation to implement a disciplinary matrix identifying misconduct categories and penalty ranges applicable to all employees, taking into account aggravating and mitigating factors for establishing a just and proper penalty, as required by the California Supreme Court in *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194.

Penal Code section 5058.4(b) requires the Secretary of the California Department of Corrections and Rehabilitation to adopt a code of conduct for all employees of the department.

Penal Code section 5058.4(d) requires the Secretary of the California Department of Corrections and Rehabilitation to provide instructions on how to report misconduct, of the

duty to fully cooperate during investigations, and to provide assurances against retaliation.

INFORMATIVE DIGEST

(Government Code section 11346.5(a)(3))

The department previously adopted emergency regulations regarding staff misconduct, employee discipline, and grievances and appeals in 2020, and later codified these provisions into permanent regulations. Permanent regulations regarding grievances and appeals were adopted on January 5, 2022 (OAL File No. 2021-1207-06); permanent regulations regarding employee discipline were adopted on September 29, 2022 (OAL File No. 2022-0912-03); permanent regulations regarding staff misconduct were adopted on October 20, 2022 (OAL File No. 2022-0909-01).

Over the past several years, CDCR implemented several organizational and cultural efforts to promote healthier relationships between staff, the incarcerated population, families, volunteers, and all others impacted by the criminal legal system. One element of this is the way the department addresses allegations of staff misconduct. In recent years, CDCR enacted regulatory changes in a good faith effort to enhance the overall processing of staff misconduct allegations. Several benefits were realized through this endeavor, including a process to ensure all claims received are impartially reviewed. However, despite exhaustive efforts to make the system work as envisioned, weaknesses threaten to cause the process to break under its own weight and require modifications. CDCR has elected to take a holistic approach to resolve existing weaknesses within the system. While each enhancement is expected to yield a positive impact, their true benefits will be maximized when they are implemented in concert.

These regulations will significantly improve the department's handling of staff misconduct allegations involving incarcerated and supervised persons, which in turn will improve departmental transparency, integrity, and staff accountability. These regulations will also bring CDCR into compliance with expanded *Armstrong* Court Orders (*Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307 CW on September 8, 2020) that call for reforms to the department's staff complaint, investigation, and discipline processes to ensure that CDCR completes unbiased, comprehensive investigations into all allegations of staff misconduct.

This emergency rulemaking action implements, in part, a remedial plan adopted by CDCR as directed by court order issued in *Armstrong et al. v. Newsom et al.*, United States District Court for the Northern District of California, Court Case number 94-cv-02307 CW on September 8, 2020. (Order). This Order requires CDCR to implement remedial measures to achieve compliance with the *Armstrong* Remedial Plan (ARP) and the Americans with Disabilities Act (ADA) at the Richard J. Donovan Correctional Facility (RJD).

Policy Statement Overview

(Government Code section 11346.5(a)(3)(C))

This rulemaking action will:

- Replace the Allegation Inquiry process with a “routine review” process for grievances and requests for reasonable accommodation. The Allegation Inquiry process has severely restricted a supervisor’s ability to supervise their staff and take timely corrective action designed to prevent staff from engaging in repeated violations of a similar nature. The Allegation Inquiry process bypasses managers with oversight of these areas from being directly involved. This top-heavy process for less serious issues has overwhelmed the limited resources within the Office of Internal Affairs (OIA) and upper management. The existing Allegation Inquiry process will be replaced by routine reviews. A routine review would be conducted by an OIA-trained supervisor or manager to gather facts and determine if the complaint is true; if true, then determine what corrective action is appropriate. Any corrective action would be presented to a manager for approval. During a routine review, if a supervisor gathers facts which may result in adverse action, the Hiring Authority shall refer the matter to OIA for investigation.
- Add requests for reasonable accommodation to the amended processes for responding to grievances. As reasonable accommodation requests are reviewed and processed in the same manner as grievances, the department determined that codifying that process in regulations would provide clarity to claimants as well as staff involved in processing these requests. To that end, the existing form related to grievances and the form related to requests for reasonable accommodation have been merged into a single form, which is incorporated by reference in these regulations.
- Create two special conditions that will allow for the closure of an investigation into an allegation of staff misconduct. First, when audio/video recordings provide conclusive evidence that the alleged misconduct did not occur. Second, when no further investigatory steps can be pursued due to the lack of specificity provided by the claimant and the claimant’s refusal to cooperate with the investigator’s efforts to obtain additional information. This will allow for the closure of an investigation when independent evidence satisfies the burden of proof without the unnecessary expenditure of scarce resources.
- Create three new decision types that may be issued by the Office of Appeals in response to an appeal of a grievance or reasonable accommodation request. First, “Remanded” shall be used in cases where the Office of Grievances made procedural or substantive errors in reviewing or responding to a grievance or request for reasonable accommodation. Second, “Overlooked” shall be used in cases where the Office of Grievances failed to respond properly, pursuant to these regulations, to a claim submitted in a grievance or request for reasonable accommodation. Third, “Bypassed” shall be used when the claimant adds a claim as part of their appeal that was not originally submitted as part of the grievance or request for reasonable

accommodation. These new decisions do not exhaust the administrative remedies process, as claimants will receive a subsequent decision regarding their claims.

- Establish that claims shall be rejected if they object to any of the following: a decision issued by Office of Appeals; the fact gathering process during a routine review; the fact gathering process during an investigation of staff misconduct; the findings made by a hiring authority at the conclusion of an investigation of staff misconduct; or the verbal or written statements submitted by staff under penalty of perjury to a court of law or administrative tribunal. These new rejection criteria are necessary because, respectively: the Office of Appeals is the final level of appeal; fact gathering is an internal process that is not subject to appeal; Hiring Authorities have the final authority to make findings following an investigation of staff misconduct; and statements made under oath are properly the purview of the presiding authority at the court or tribunal.
- Establish that department staff shall not access grievances, reasonable accommodation requests, or appeals in the department's information technology system unless specifically assigned to respond to a claim or when fulfilling another legitimate business need. These provisions are intended to help prevent retaliation against claimants.
- Create a policy review process. This process will be utilized when an incarcerated or supervised person makes a claim that a specific department policy violates or contradicts established law or pre-existing policy issued by a higher authority and should be changed or repealed, rather than alleging misconduct on the part of one or more department staff.
- Amend and adopt provisions related to access to personal records to update the process and timelines for requests pursuant to the Information Practices Act.
- Adopt, amend, and repeal definitions related to the amended provisions. Duplicative definitions (i.e., definitions that appear in multiple sections that apply to the same Article) have been removed.
- Repeal outdated implementation dates. Previous regulations had a graduated implementation schedule based upon court orders. Those dates have passed and are no longer relevant.

Documents Incorporated by Reference

CDCR Form 602-1 / 1824, Grievance / Reasonable Accommodation Request (Rev. 01/25)

CDCR Form 602-2, Appeal (Rev. 01/25)

CDCR Form 602-3, Request to Implement Overdue Remedy (Rev. 01/25)

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

(Government Code section 11346.5(a)(3)(C))

These regulations will significantly improve the department's handling of staff misconduct allegations involving an incarcerated or supervised person, which in turn will improve departmental transparency, integrity, and staff accountability.

These regulations will also bring CDCR into compliance with expanded Armstrong Court Orders that call for reforms to the department's staff complaint, investigation, and discipline processes to ensure that CDCR completes unbiased, comprehensive investigations into all allegations of staff misconduct for class members under the Armstrong Remedial Plan and the Americans with Disabilities Act.

EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS (Government Code section 11346.5(a)(3)(D))

The department has determined that these proposed regulations are not inconsistent or incompatible with existing regulations or other state laws.

STATUTORY REQUIREMENTS, IF ANY, SPECIFIC TO AGENCY
(Government Code section 1346.5(a)(4))

Not applicable.

LOCAL MANDATE DETERMINATION
(Government Code section 11346.5(a)(5))

This action imposes no mandates on local agencies or school districts, nor a mandate which requires reimbursement of costs or savings pursuant to Government Code sections 17500 through 17630.

FISCAL IMPACT STATEMENTS OF COST OR SAVINGS FOR THE FOLLOWING
(Government Code section 11346.5(a)(6))

- Cost to any local agency or school district requiring reimbursement: *None*
- Cost or savings to any state agency: *None*
- Cost or savings in federal funding to the state: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON

None