



Department of Corrections and  
Rehabilitation

## NOTICE OF CHANGE TO REGULATIONS

Sections: 3000; 3040.1, 3040.2, 3041, 3041.3,  
3043.6, and 3379

Number:

16-03

Publication Date:

March 11, 2016

Effective Date:

February 18, 2016

This Notice announces the amendment to Sections 3000, 3040.1, 3041, 3041.3, 3043.6, and 3379, and the adoption of Section 3040.2 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR, provisions concerning Long Term Offender Program.

### **IMPLEMENTATION: TO BE ANNOUNCED.**

These regulations are in temporary emergency effect pending completion of the public comment period and final certification of adoption per Penal Code Section 5058.3.

### **PUBLIC COMMENT PERIOD**

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation, Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, by fax to (916) 324-6075, or by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). All written comments must be received by the close of the public comment period, **May 5, 2016**.

### **PUBLIC HEARING INFORMATION**

A public hearing regarding these proposed regulations will be held **May 5, 2016, from 10:00 a.m. to 11:00 a.m. in the Kern Room, located at 1515 S Street, North Building, Sacramento, CA 95811**. The purpose of the hearing is to receive oral comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period have the same significance and influence as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

### **POSTING**

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each department facility and field office. Also, facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies and shall distribute it to inmate law libraries and advisory councils. Certification should be provided by the institution's Rules Coordinator and returned to RPMB on a CDCR Form 621-A, Certificate of Posting, by e-mail or by FAX. See Department Operations Manual 12010.12.1 and 12010.12.2 for posting and certification of posting procedures.

### **CONTACT PERSON**

Inquiries regarding this notice should be directed to Timothy M. Lockwood, Chief, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone (916) 445-2269 or e-mail, [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations may be directed to Mike Mott, Division of Rehabilitative Programs, at (916) 324-0661.

*Original signed by:*

SCOTT KERNAN  
Secretary  
California Department of Corrections and Rehabilitation

Attachments

## NOTICE OF PROPOSED REGULATORY ACTION

### California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, proposes to amend Sections 3000, 3040.1, 3041, 3041.3, 3043.6, and 3379, and adopt Section 3040.2 of the California Code of Regulations (CCR), Title 15, Division 3 concerning the Long Term Offender Program.

#### **PUBLIC HEARING:**

Date and Time: **May 5, 2016 – 10:00 a.m. to 11:00 a.m.**

Place: Department of Corrections and Rehabilitation  
Kern Room  
1515 S Street – North Building  
Sacramento, CA 95811

Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close **May 5, 2016, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief**  
**Regulation and Policy Management Branch**  
**Department of Corrections and Rehabilitation**  
**P.O. Box 942883, Sacramento, CA 94283-0001**  
**Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**R. Ruiz**  
**Regulation and Policy Management Branch**  
**Telephone (916) 445-2244**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Mike Mott**  
**Division of Rehabilitative Services**  
**Telephone (916) 324-0661**

**AUTHORITY AND REFERENCE:**

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to GC Section 11340.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Current regulations establish that rehabilitative programs are provided to inmates to help prepare them for their release from prison, providing valuable skills and reducing the likelihood of recidivism. However, due to the cost of prison overcrowding and significant budget restrictions, the Department was able to serve only a small percentage of its offender population with rehabilitative services.

Assembly Bill 109, The Public Safety Realignment (Realignment), was signed into law in 2011, and directed offenders with certain felony convictions to serve their incarceration in local jails rather than in prison. As a result of Realignment, the Department experienced a significant population reduction and was able to redirect resources to its goal of enhancing rehabilitative programs in an effort to reduce recidivism.

The proposed regulations provide authority for the Department to establish the Long Term Offender Program (LTOP) at designated institutions to provide inmates who are serving long term sentences with evidenced based Cognitive Behavioral Treatment (CBT) programs with the goal of minimizing the risk to society if released, and with services upon release to allow an easier transition back into society.

This action provides the following:

- A definition of the LTOP.
- Program eligibility and exclusionary criteria.
- A priority system for placement into an LTOP.
- Inmates will not be subject to disciplinary action for failure to participate in the LTOP as it is a voluntary program.
- Inmate transfer procedures for the purpose of participating in an LTOP.
- Program participants receive priority for work reassignment upon completion of their LTOP assignment.
- LTOP participants are exempt from the standard institution wait list merging process, and upon completion of an LTOP assignment, have priority over other inmates waiting for a similar work assignment.

**DOCUMENTS INCORPORATED BY REFERENCE:**

None.

**SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:**

The Department anticipates that the proposed regulations reduce recidivism by preparing inmates for their release and successful reintegration into society, and promote fairness and social equality by providing valuable rehabilitative programs to long term offenders. This will also result in the protection of public health and safety upon the inmates' release.

**EVALUATION OF CONSISTENCY / COMPATIBILITY WITH EXISTING REGULATIONS:**

In developing the proposed regulations, the Department researched existing statutes and regulations concerning rehabilitative programs for long term offenders and concluded that the proposed regulations are not inconsistent or incompatible with existing state laws and regulations.

**LOCAL MANDATES:**

The proposed regulatory action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

**FISCAL IMPACT STATEMENT:**

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

**EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESS:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**EFFECT ON SMALL BUSINESSES:**

It is determined that this action has no significant adverse economic impact on small business as these regulations describe a rehabilitative program for long term offenders, and the prison population does not have a significant impact on small businesses.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California, or affect the expansion of businesses currently doing business in California as the proposed regulations relate only to the internal management of CDCR institutions. Existing Department staff will perform the actions described in the proposed regulations through their current duties.

The Department anticipates that the proposed regulations reduce recidivism by preparing inmates for their release and successful reintegration into society, and promote fairness and social equality by providing valuable rehabilitative programs to long term offenders. This will also result in the protection of public health and safety upon the inmates' release.

**CONSIDERATION OF ALTERNATIVES:**

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

**AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action are also available on the Department's website <http://www.cdcr.ca.gov>.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's website.

**AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## TEXT OF PROPOSED REGULATIONS

In the following, underline indicates new or additional text and ~~strikethrough~~ indicates deleted text.

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

Chapter 1. Rules and Regulations of Adult Operations and Programs

TABLE OF CONTENTS is amended deleting the title in Section 3040.2 and new title is adopted to read:

3040.2 ~~Bridging Education Program. [Repealed]~~ Long Term Offender Program.

### Article 1. Behavior

#### Section 3000. Definitions.

Section 3000 is amended to alphabetically merge the definition below with those that exist in the regulations.

\*  
\*  
\*

Long Term Offender Program means a voluntary program that provides Cognitive Behavioral Treatment and other rehabilitative programs to inmates who are subject to parole suitability hearings conducted by the Board of Parole Hearings.

\*  
\*  
\*

Note: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5009, 5050, 5054, 5068, 7000 et seq. and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; and *Madrid v. Cate* (U.S.D.C. N.D. Cal. C90-3094 TEH).

### Article 3. Work and Education

#### Section 3040.1. Cognitive Behavioral Treatment and Substance Abuse Treatment Criteria.

Subsection 3040.1(a) is amended to read:

(a) Prisons may establish Cognitive Behavioral Treatment (CBT) programs to provide evidence-based treatment services to inmates. Priority placement into CBT programs shall be for inmates who have a

criminogenic need for the specific CBT program as identified by a validated automated risk and needs assessment tool. For placement into a CBT program, the inmate's remaining time to serve shall be within the prescribed length of participation required for the CBT program, with the exception of placement into a Long Term Offender Program as outlined in Section 3040.2. CBT programs include but are not limited to Substance Abuse Treatment (SAT), Criminal Thinking, Anger Management and Family Relationships.

**Subsections 3040.1(b) – 3040.1(d) remain unchanged.**

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

**Section 3040.2. ~~Bridging Education Program.~~ Long Term Offender Program.**

**New subsection 3040.2(a) is adopted to read:**

(a) The Long Term Offender Program (LTOP) is a voluntary program that provides Cognitive Behavioral Treatment (CBT) and other rehabilitative programs to inmates who are subject to a Board of Parole Hearings parole suitability hearing as described in CCR Title 15, Division 2, Section 2280, Parole Consideration Criteria and Guidelines for Life Prisoners. All LTOP participants shall be provided Victim Impact and Denial Management programs. Prisons may establish an LTOP to provide evidence-based treatment services for inmates who meet the eligibility criteria specified in subsections 3040.2(c)-3040.2(c)(3).

**New subsection 3040.2(b) is adopted to read:**

(b) Inmates assigned to an LTOP are subject to the program participation requirements of section 3040 and the performance requirements of section 3041. The LTOP shall operate as a voluntary program, and inmates who are enrolled in LTOP are not subject to disciplinary action pursuant to subsections 3314(a)(3)(F) and 3315(a)(3)(J) or placement into Work Group C or Privilege Group C pursuant to subsections 3044(b)(5)(A) and 3044(f)(1)(A), solely for refusing to participate, but may be removed from LTOP.

**New subsections 3040.2(c) - 3040.2(c)(3) are adopted to read:**

(c) Inmates who meet the following criteria may be considered for placement into LTOP:

(1) Reside within the General Population and does not have case factors that would preclude placement at an institution operating an LTOP.

(2) Must have a criminogenic need identified by an automated needs assessment tool, as described in section 3000.

(3) Is serving an indeterminate sentence with the possibility of parole or a long term determinate sentence and be within one to five years from a parole suitability hearing. Inmates housed at an institution operating an LTOP who have less than one year remaining to their parole suitability hearing may be considered on a case-by-case basis.

**New subsection 3040.2(d) is adopted to read:**

(d) Inmates who are enrolled in the Mental Health Services Delivery System (MHSDS) at the Correctional Clinical Case Management System (CCCMS) or Enhanced Outpatient (EOP) Level of Care may be considered for participation in an LTOP if they meet the listed eligibility criteria. However, due to their higher need for psychiatric services, EOP inmates shall only be approved on a case-by-case basis, if they can benefit from the program as determined by an Interdisciplinary Treatment Team.

**New subsections 3040.2(e) - 3040.2(e)(2) are adopted to read:**

(e) Long Term Offender Program Exclusionary Criteria:

(1) The inmate has been found guilty of a Division A, B or C disciplinary offense, as described in section 3323, within the last 12 months. Division C disciplinary offenses for inmate manufactured alcohol or possession of controlled substances are non-exclusionary, and inmates may still be considered for the LTOP.

(2) The inmate has served a Security Housing Unit (SHU) term and less than 12 months have passed since the Minimum Eligible Release Date, as defined in section 3000, or if the SHU term was suspended and less than 12 months have passed since the date of the suspension action.

**New subsections 3040.2(f) and (f)(1) are adopted to read:**

(f) Assignments and transfers.

(1) Placement into and removal from an LTOP assignment shall be by classification committee action pursuant to subsection 3375(c).

**New subsections 3040.2(f)(2) through 3040.2(f)(2)(B) are adopted to read:**

(2) Priority for assignment into LTOP is based on the following:

(A) First, inmates who are closest to their next subsequent parole suitability hearing as described in CCR Title 15, Division 2, Section 2306, Subsequent Parole Hearing.

(B) Second, inmates who are closest to their initial parole suitability hearing as described in CCR Title 15, Division 2, Section 2304, Initial Parole Hearing.

**New subsections 3040.2(f)(3) through 3040.2(f)(5) are adopted to read:**

(3) Inmates assigned to an LTOP may be assigned in combination with other institutional assignments.

(4) Upon completion of the LTOP assignment, if the inmate requests placement back into a similar work assignment held prior to placement in LTOP, they shall receive priority placement over all other inmates with the exception of those offenders who have also participated in LTOP. In these situations, first priority for assignment will be given by the oldest LTOP completion date. The assignment process provided in this subsection does not guarantee placement back into the exact position and/or pay rate held prior to assignment into LTOP. Furthermore, for purposes of this section, priority means that an inmate will be placed at the top of the institution's waiting list for reassignment. It does not mean that the inmate can replace another inmate from his or her current assignment.

(5) Inmates may receive temporary transfers to an institution operating an LTOP. Inmates who receive temporary transfer shall normally be returned back to the sending institution upon completion of the LTOP assignment unless case factors preclude the transfer.

Note: Authority cited: Sections 5058, Penal Code. Reference: Sections ~~2933 and~~ 5054, Penal Code.

## **Section 3041. Performance.**

**Subsections 3041(a) through 3041(c) remain unchanged.**

**Subsection 3041(d) is amended to read:**

(d) Inmates assigned to educational, Career Technical Education, Reentry Hub assignments, Long Term Offender Program (LTOP) assignments, substance abuse treatment, or other training programs must cooperate with the instructor or the person in charge, and must comply with instructions, and all requirements for participation in the assigned activity. LTOP participants will be removed from the program per subsection 3040.2(b).

**Subsections 3041(e) through 3041(e)(2) remain unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Sections 2297, 2318, 2320 and 1798 et seq., Civil Code.

## **Section 3041.3. Inmate/Parolee Access to Computers.**

**Subsection 3041.3(a) is amended to read:**

(a) Inmates shall not access any computer outside of their authorized work, Career Technical Education program, educational assignment, Reentry Hub, Long Term Offender Program or substance abuse treatment assignment, or as needed for legal research on the Law Library Electronic Delivery System, except as authorized by the department's Information Security Officer (ISO).

**Subsections 3041.3(b) through 3041.3(c)(1) remain unchanged.**

**Subsection 3041.3(c)(2) is amended to read:**

(2) Inmates assigned to one computer for work, Career Technical Education program, education, Reentry Hub, Long Term Offender Program or substance abuse treatment shall not be assigned to, or permitted to use, any other computer, except as approved by the ISO.

**Subsections 3041.3(d) through 3041.3(n) remain unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 502, 502.7 and 2702, Penal Code.

## **Article 3.5 Credits**

### **Section 3043.6. Impact of Transfer on Credit Earning.**

**Subsections 3043.6(a) through 3043.6(a)(2) remain unchanged.**

**Subsection 3043.6(a)(3) is amended to read:**

(3) With the exception of inmates assigned pursuant to subsections 3040.2(f)(2) and 3040.2(f)(4), A an inmate in a work assignment at the sending institution shall be placed on an existing waiting list at the receiving institution. If eligible, inmates on waiting lists at sending institutions shall be merged into the

receiving institution's waiting list based on credit earning status, release date, and the length of time they have spent on the sending institution's waiting list. Inmates who are day-for-day eligible per Penal Code section 2933 shall be given priority for assignment with the exception of Senate Bill (SB) 618 Participants who, as defined in section 3000, pursuant to the provisions of subsection 3077.3(b)(1), and subject to the provisions of 3077.3(f), shall be placed at the top of an institution's waiting list and given priority for assignment. Inmates shall be merged into the receiving institution's waiting list in the following manner:

**Subsections 3043.6(a)(3)(A) through 3043.6(f) remain unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1203.8, 1364, 2684, 2690, 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

## **Subchapter 4. GENERAL INSTITUTION REGULATIONS**

### **Article 10. Classification**

#### **Section 3379. Inmate Transfers.**

**Subsections 3379(a) through 3379(a)(10)(B)2 remain unchanged.**

**New subsection 3379(a)(11) is adopted to read:**

(11) Long Term Offender Program (LTOP) Transfers. Inmates who meet the criteria for placement into an LTOP may receive a temporary transfer to an institution operating an LTOP, pursuant to subsection 3040.2(f)(5). Upon completion of the program, they shall be transferred back to the sending institution unless case factors preclude the transfer.

**Subsections 3379(b) through 3379(d)(4) remain unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2911, 5025, 5054, 5068, 5080 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Armstrong v. Schwarzenegger*, United States District Court, N.D. Cal., No. C-94-2307 CW, Stipulation and Proposed Order issued November 30, 2006; *Coleman v. Schwarzenegger*, United States District Court, E.D. Cal., No. CIV-S-90-0520 LKK JFM P, Order issued November 6, 2006; and *Whitaker v. Rushen* (9th Cir. 1983) 720 F.2d 1132, 1135.

## **Subchapter 8. PILOT PROGRAMS**

### **Article 1. Pilot Programs.**

#### **Section 3999.15. Pilot Program for Long-Term Offenders.**

State of California Department of Corrections and Rehabilitation

#### **Memorandum**

#### **INSTRUCTIONAL MEMORANDUM**

Date:

To:

Associate Directors, Division of Adult Institutions

Wardens  
Classification and Parole Representatives  
Correctional Counselor IIIs—Reception Centers  
Correctional Case Records Managers  
Regional Parole Administrators

Subject: **PILOT PROGRAM FOR LONG TERM OFFENDERS**

### **PURPOSE**

This memorandum announces the implementation of the California Department of Corrections and Rehabilitation (CDCR), Division of Rehabilitative Programs (DRP), Long Term Offender Pilot Program (LTOPP). The purpose of the LTOPP is to provide inmates who are serving long term sentences with evidence based Cognitive Behavioral Treatment (CBT) programs with the goal of minimizing the risk to society if released, and provide services upon release to allow an easier transition back into society. This memorandum defines staff responsibilities and establishes a uniform process for identifying and processing inmates into and out of the LTOPP.

### **PILOT PROGRAM REQUIREMENTS**

The LTOPP is being implemented under the authority of Penal Code (PC) Section 5058.1. This pilot program is intended to serve inmates who have been identified as having moderate to high criminogenic needs and are serving indeterminate sentences with the possibility of parole.

### **PILOT PROGRAM DURATION AND LOCATIONS**

The LTOPP will be initiated at the following locations:

- California State Prison, Solano (SOL), Vacaville, California
- Central California Women's Facility (CCWF), Chowchilla, California
- California Men's Colony (CMC), San Luis Obispo, California
- Long Term Offender Reentry Facility (LTORF), counties to be determined

In addition, locations for parolees are being planned and the pilot program is expected to be implemented at those locations in early 2015. The pilot program will be in effect for a 24 month period from January 1, 2014 through December 31, 2015, at which time it will lapse by operation of law if it has not already been formally promulgated through the Administrative Procedure Act. There will be an ongoing assessment of the pilot project by the Division of Rehabilitative Programs Assessments Unit, which will monitor the implementation and effectiveness of the policy and procedures as set forth in this plan.

### **BACKGROUND**

In accordance with “*The Future of California Corrections, A Blueprint to Save Billions of Dollars End Federal Court Oversight, and Improve the Prison System*”, the Department was tasked to increase the percentage of inmates served in rehabilitative programs prior to release to 70 percent of the Department's target population. In reaching that goal, the Department is employing additional structured programs to address particular criminogenic needs such as substance abuse, criminal thinking, anger management, and family relationships. In addition, the Department has developed a reentry model program specifically designed for offenders who have served very long sentences.

In addition, the Department has become aware the number of life term offenders who have been released after serving a significant amount of time has steadily increased. Due to the length of time served on their sentences, these offenders are often not prepared for the significant changes in technology and day to day living activities that have occurred since they were first incarcerated. To ease the transition back to society, in addition to providing in-prison CBT programs, the Department will also provide transition services specifically designed to meet this population's needs when released.

### **PROGRAM STRUCTURE**

The LTOPP is a voluntary program in which a qualified contractor will provide CBT programming for offenders who have been assessed by the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) as having moderate to high criminogenic needs. The contractor shall operate an evidence-based program based on principles and practices that have been proven to reduce recidivism. The program will provide evidence-based CBT for the following major offender programming areas:

- Substance Abuse
- Criminal Thinking
- Victim Impact
- Anger Management
- Family Relationships

Treatment will normally be delivered in individual or group settings utilizing motivational interviewing techniques, but may also include homework activities. Treatment groups will not exceed 3.25 hours in length and will be provided at no more than a 12 to 1, participant to Therapeutic Counselor (TC), ratio. The number of treatment slots is based on institutional programming space as follows:

Institution	Substance Abuse	Criminal Thinking	Victim Impact	Anger Management	Family Relationships
CMC	96	48	48	48	48
SOL	120	72	72	72	72
CCWF	72	24	24	24	24

Certified and non-certified peer mentors may also be utilized by the contractor to deliver treatment services. Contract staff shall provide participants with frequent reinforcement and acknowledgement for positive behaviors as well as consistent and predictable feedback for negative behavior.

The average duration of the individual program components will be as follows:

- Substance Abuse: five months, five days per week, Monday through Friday
- Criminal Thinking: three months, two days per week, Mondays and Wednesdays
- Victim Impact: two months, two days per week, Tuesdays and Thursdays
- Anger Management: three months, two days per week, Mondays and Wednesdays
- Family Relationships: three months, two days per week, Tuesdays and Thursdays

Based on initial and ongoing criminogenic needs, the contractor will develop an individualized treatment plan for each participating offender which shall be maintained in a treatment file and updated accordingly. The contractor will also record program data on each participating offender as well as daily attendance and monthly progress.

Each participating offender will be monitored for the duration of time they are participating in the program. Pre- and post-assessments will be completed for each program component to determine the degree of success or failure the offender has had in addressing his or her criminogenic needs.

**PROGRAM PROCEDURES**

**1. Initial Implementation**

**Eligibility**

In order to be eligible for participation in the LTOPP, inmates must meet the following requirements:

- ~~Must be residing within the General Population.~~
- ~~Must be willing to participate.~~
- ~~Must have moderate or high criminogenic needs as identified in the COMPAS, Reentry Men's/Women's Long Term Offender Reentry Assessment (LTORA).~~
- ~~Must be serving an indeterminate sentence with the possibility of parole. Offenders who have already appeared before the Board of Parole Hearing (BPH) for a parole suitability hearing and were denied parole for a three year period will receive first priority for placement in the program. If insufficient numbers exist for program placement, three year stipulations to unsuitability will receive the next priority followed by five year denials and five year stipulations. Female inmates may also be considered for placement within one to five years of their Minimum Eligible Parole Date, if they have remained disciplinary free during that one to five year time frame and no other potential candidates exist to assign from above noted categories.~~
- ~~Armstrong and Clark class members are not excluded if their current disabilities do not prevent housing at the pilot locations. Inmates enrolled in the Mental Health Delivery System at the Enhanced Outpatient level of care may participate on a case by case basis if they can benefit from the program as determined by the Inter Disciplinary Treatment Team.~~
- ~~Inmates who have been deemed totally medically disabled shall require medical clearance from health care staff and will require a classification committee action to review the clearance and approve placement.~~

**Staffing**

DRP has established the following positions on a limited term basis to assist in managing the LTOPP:

LOCATION	POSITIONS
SOL	(1) Correctional Counselor (CC) III/Long Term
	Offender Pilot Program Manager (LTOPPM)
	(1) Parole Service Associate
CCWF	(1) CC II Specialist/Assistant LTOPPM
CMC	(1) CC II Specialist/Assistant LTOPPM

**2. Initial Program Placement**

**Identification and Assessment**

~~During initial implementation, it is anticipated the vast majority of the inmates participating in the program will already be housed at the designated LTOPP institutions; however, transfers may be required based on program needs. A list of eligible offenders who are currently housed at the pilot location will be generated by DRP staff. Each offender on the eligibility list will be asked if they will agree to participate in the program and take a COMPAS Reentry Assessment prior to enrollment. Those offenders willing to participate will be referred to Parole Planning and Placement (PPP) staff who will administer the Men's/Women's LTORA instrument.~~

**3. Inmate Assignment Process**

**Classification Committee Review**

Placement into the LTOPP shall be as a result of a Unit Classification Committee (UCC) action. Once an inmate has completed the LTORA, the inmate's assigned CC I shall present the case to UCC and place the inmate in one or more of the below noted waiting lists (W/L) based on the inmate's individual criminogenic needs. The UCC action may be held in absentia due to the non-adverse nature of the proceedings.

Once an offender has completed the LTOPP, a CDCR Form 128B1, *Notice of Classification Hearing*, shall be generated by the LTOPP Program Manager and referred to the inmate's assigned CC. The CC shall schedule the inmate for a UCC review and shall remove the offender from the LTOPP and place them onto an appropriate work W/L. If the inmate requests placement back into a similar work assignment to what he or she held prior to placement into the LTOPP, the inmate shall receive priority placement over all other inmates on the work W/L with the exception of those offenders who have already participated in the LTOPP. UCC shall alert the IAO of the inmate's priority status. In these situations however, placement back into the exact position and/or pay rate held prior to placement into the LTOPP is not guaranteed.

**Inmate Assignment Office**

Until the Classification and Inmate Assignment components in the Strategic Offender Management System have been implemented, the Inmate Assignment Officer (IAO) at the LTOPP institutions shall establish Inmate Work Training Incentive Program (IWTIP) W/L in the Data Distribution Processing System (DDPS) for the following LTOPP CBT programs:

<b>LTOPP CBT Program</b>	<b>DDPS WL Code</b>
Substance Abuse	SO2
Criminal Thinking	CT2
Victim Impact	VI2
Anger Management	AM2
Family Relationships	FR2

The IAO shall also create IWTIP positions for each of the above noted LTOPP CBT programs. These IWTIP positions shall be created at a 12 to 1, inmate to TC, ratio; however, positions may be brought up and taken down on an ongoing basis depending on the number of candidates on each LTOPP W/L. Prior to eliminating any positions, approval will be required from the LTOPPM/Assistant Manager and DRP Headquarter staff.

For assignment purposes, the IWTIP code for these new positions is "T". The corresponding Position ID Prefixes are listed below:

<b>LTOPP CBT Program</b>	<b>IWTIP Code</b>	<b>Position ID Prefix</b>
Substance Abuse	T	SO2

Criminal Thinking	T	CRT2
Victim Impact	T	VIM2
Anger Management	T	ANM2
Family Relationships	T	FAM2

All assignments to LTOPP CBT programs will be in accordance with each individual inmate's treatment plan as determined by the LTOPPM and contract staff, and will be coordinated through the IAO.

In order to support institutional operations, the institution shall have the ability to identify critical assignments that can be filled on a temporary basis from a work W/L while the inmates occupying the critical assignments are assigned to the LTOPP. Once the LTOPP is completed, inmates will resume their previous assignments, and inmates filling the temporary positions will be returned to appropriate work W/L. These assignment changes shall be made by the IAO and shall not require a classification committee action.

Inmates assigned to critical assignments may also be assigned to a LTOPP half time position and half time to their current assignment. Half time assignments however, shall be approved by the LTOPPM and the IAO.

#### **4. Ongoing Program Placement**

##### **Identification and Assessment**

Following the initial placement process, all inmates shall be referred to the LTOPP as part of their post board UCC review. During the inmate's parole suitability hearing, the BPH panel will explain the LTOPP to those inmates who have been denied parole and meet the eligibility criteria to participate. If the inmate chooses to participate in the LTOPP and is willing to take the LTORA, the BPH panel will mark the "other" box in the Panel Recommendations and Request portion of the BPH Form 1001, *Board of Parole Hearings Life Prisoner Hearing Decision Face Sheet*, along with writing "recommend placement in the LTOPP if available."

Within one working day of receipt of the BPH Form 1001, Case Records shall provide a copy of the form to the C&PR or designee. The C&PR or designee shall forward a copy of the BPH Form 1001 to the institution's PPP staff alerting them of the need to conduct a LTORA within 40 calendar days.

##### **Classification Committee Review**

In order to review the LTORA, the inmate's assigned CC shall have up to 45 calendar days to conduct a post board review on the inmates who have agreed to participate in the LTOPP. Utilizing the LTORA, the CC shall determine if the inmate has a criminogenic need that would warrant placement into the program. If the offender is located at CSP-SOL, CCWF, or CMC, the CC will place the offender in an appropriate LTOPP W/L via the normal classification process. If the offender is not at the above noted locations and no case factors exist that would preclude transfer, the CC shall refer the case for endorsement and transfer to a LTOPP institution.

At the time of the transfer endorsement, the Classification Services Representative shall note on the CDCR Form 128G, **Classification Chrono**, that the offender shall be returned to the sending institution upon completion of the LTOPP unless other precluding factors exist. Upon arrival at the LTOPP institution, the assigned CC shall review the LTORA and place the inmate on an appropriate LTOPP W/L during the inmate's Initial Classification Committee Review. Upon completion of the LTOPP, the inmate's assigned CC shall take the inmate back to UCC, and if no precluding factors exist, shall submit the case for transfer back to the sending institution.

#### **5. Reentry Placement**

##### **Life Term Suitability Hearing**

In the event an inmate is found suitable for parole during his or her Parole Suitability Hearing, the BPH panel members shall consider on a case by case basis if placement into a LTORF is appropriate. Placement shall be based on the inmate's parole plans, community support, job skills, and ability to function in the community following a lengthy period of incarceration. If placement into the LTORF is deemed appropriate, the BPH panel shall impose a special condition of parole to participate in a LTORF program. Based on LTORF program space availability, the BPH may also order out of the county placement in order to participate in the program. Prior to release, the BPH Investigations Unit shall ensure that program space is still available at the LTORF. If space is unavailable, the BPH Investigations Unit will determine if program space is available at an alternative LTORF. If space is available at an alternative site, the special condition of parole may be altered to order placement into the facility. If space is unavailable, the BPH shall remove the special condition of parole prior to release.

Questions or concerns regarding the LTOPP should be directed to Michael Mott, Facility Captain, Retired Annuitant, via email at [Michael.Mott@edcr.ca.gov](mailto:Michael.Mott@edcr.ca.gov) or via telephone at (916) 327-1944, or Nicole Danbacher, CC II, via email at [Nicole.Danbacher@edcr.ca.gov](mailto:Nicole.Danbacher@edcr.ca.gov) or via telephone at (916) 324-8730.

/s/:	/s/:	
MILLICENT TIDWELL	M. D. STAINER	
Director	Director	
Division of Rehabilitative Programs	Division of Adult Institutions	
cc:		
Jeffrey Beard	Martin Hoshino	Daniel Stone
Rodger Meier	Bobby Haase	Kathleen Allison
Kelly Harrington	Kathleen Dickinson	Vimal Singh
Maritza Rodriguez	Tim Baker	Tim Lockwood
D. K. Johnson	Delores Paschal	Steve Smith
Montaigne White	Clifford Stauss	Nicole Danbacher
Michael Mott		

## **INITIAL STATEMENT OF REASONS**

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend sections 3000, 3040.1, 3041, 3041.3, 3043.6, and 3379, and adopt new Section 3040.2 of the California Code of Regulations (CCR), Title 15, Division 3, governing the Long Term Offender Program.

On April 4, 2011, Governor Edmund G. Brown Jr. signed into law Assembly Bill 109, the Public Safety Realignment Act (Realignment), which directs offenders with certain felony convictions to serve their incarceration in local jails rather than state prisons. As a result of Realignment, CDCR experienced a significant population reduction and was able to redirect resources to its goal of enhancing rehabilitative programs in an effort to reduce recidivism. Prior to Realignment, the Department was able to serve only a small percentage of its offender population with rehabilitative services due to the costs of overcrowding and significant budget restrictions.

The Department's plans for restructuring of these efforts are outlined in "The Future of California Corrections, a blueprint to save billions of dollars, end federal court oversight and improve the prison system" (commonly referred as the Blueprint) which was issued in April 2012. Included in the Blueprint is the Department's goal of providing rehabilitative programs to 70 percent of its population. To help meet that goal, the Department is employing cognitive behavioral treatment (CBT) programs. CBT programs are designed to address an offender's specific criminogenic needs as identified by a validated assessment tool. CBT programs teach offenders positive behaviors to replace their old ways of getting through life. They are also shown how to be more attuned to the thought processes that led them to choose negative actions in the past. The Long Term Offender Program (LTOP) was specifically designed to provide CBT programs for inmates who are serving long term sentences and are required to participate in a Board of Parole Hearings (BPH) parole suitability hearing prior to release. Only inmates sentenced to life in prison with the possibility of parole receive BPH parole suitability hearings. An example is an inmate sentenced to serve a term of 15 years to life. However, just because an inmate is scheduled for a parole suitability hearing does not mean that he or she will be released on parole.

Under the authority of Section 5058.1 of the California Penal Code, the LTOP was initiated as a two-year pilot program at three institutions in February 2014. These regulations are required in order to continue to meet the rehabilitative needs of this population following expiration of the pilot period in February of 2016.

The Department recognizes that new subsection 3040.2(f)(5) provides the same information as new subsection 3379(a)(11) in regards to inmate transfers for participation in an LTOP. The subsections state that an inmate who received a transfer to an institution operating an LTOP for the sole purpose of participating in an LTOP, will be transferred back to the sending institution upon completion of the LTOP assignment if no case factors preclude the transfer. It is necessary to place this information in both locations of the Title to ensure that staff and inmates are clear on LTOP inmate transfer regulations. If the Department only included this transfer information in the new LTOP section, 3040.2, staff and inmates specifically looking at transfer regulations (subsection 3379), would not be aware of the LTOP transfer regulations. To avoid this partial information, the Department included LTOP transfer regulations in both sections.

## **CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternatives considered, or that have otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the

purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

### **ECONOMIC IMPACT ASSESSMENT:**

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

#### **Creation of New, or Expansion or Elimination of Existing Jobs within the State of California**

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

#### **Creation of New, or Expansion or Elimination of Existing Businesses within the State of California**

The Department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California, or affect the expansion of businesses currently doing business in California as the proposed regulations affect the internal management of prisons only.

#### **Significant Adverse Economic Impact on Business**

The Department has made an initial determination that the regulatory action will not have a significant adverse economic impact on business. The proposed regulations do not have a direct impact on California businesses as the proposed regulations affect the internal management of prisons only.

#### **Local Mandates**

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (section 17561) of Division 4.

#### **Benefits of the Regulations:**

The Department anticipates that the proposed regulations help to reduce recidivism by preparing inmates for their release and successful reintegration into society and promote fairness and social equality by providing valuable rehabilitative programs to long term offenders. This will also result in the protection of public health and safety upon the inmates' release.

## **Materials Relied Upon:**

The Department, in proposing amendments to these regulations, relied upon “The Future of California Corrections, a blueprint to save billions of dollars, end federal court oversight and improve the prison system.” This document is available for review as part of the rulemaking file, and can be accessed at the following link:

<http://www.cdcr.ca.gov/2012plan/docs/plan/complete.pdf>

## **Specific Purpose and Rationale for each Section, per Government Code 11346.2(b)(1):**

### **3000. Definitions.**

**Section 3000 is amended** to add a definition for the Long Term Offender Program. This is necessary to inform staff and inmates as the Long Term Offender Program is newly established.

### **Article 3. Work and Education**

#### **Section 3040.1. Cognitive Behavioral Treatment and Substance Abuse Treatment Criteria.**

**Subsection 3040.1(a) is amended** to establish that LTOP participants are exempt from the requirements regarding time left to serve for participation in a CBT program. This is necessary as inmates eligible for LTOP are serving life terms with the possibility of parole and their parole dates are unknown.

**Subsections 3040.1(b) – 3040.1(d) remain unchanged.**

**Section 3040.2 is amended** to remove the title Bridging Education and re-title this section Long Term Offender Program (LTOP). This is necessary as Bridging Education was repealed in 2010, and for logical placement of LTOP.

**New subsection 3040.2(a) is adopted** to describe LTOP. This is necessary to establish LTOP in regulations and to inform staff and inmates about LTOP. In addition, language specifies that all LTOP participants will be provided Victim Impact and Denial Management programs. These programs are required for all LTOP participants because it assists them to understand the impact of their criminal behavior on others and to accept the fact that their behavior needs to change.

**New subsection 3040.2(b) is adopted** to establish that disciplinary action will not be applied for refusing to participate in the LTOP. This provision is necessary to provide incentive for LTOP participation and to ensure staff to do not issue a rules violation report for failure to participate in this voluntary program.

**New subsection 3040.2(c) is adopted** to establish LTOP eligibility criteria. This is necessary toward the Blueprint goal of providing rehabilitative programs to 70% of the inmate population.

**New subsection 3040.2(c)(1) is adopted** to specify that eligible inmates are housed in the general population, and do not have case factors that would preclude their placement in a facility operating an LTOP. Inmates who are housed in specialized housing, such as a Security Housing Unit (SHU) or a Psychiatric Services Unit require increased supervision and limits the inmate’s movement due to security concerns as described in subsections 3270 and 3269.1(d) of the Title 15 and are therefore not able to

participate in the LTOP as these inmates may not be able to receive transfer to an LTOP institution. This provision is needed as space for this rehabilitative program is limited, and inmates who are housed within the general population and not in specialized housing with greater custody restrictions are able to be transferred and move within prisons more easily, due to the lowered risk and security concerns.

Inmates are also not eligible to participate in an LTOP if they have conflicting case factors, such as enemy concerns; out of level placement; or conflicting custody levels, that would preclude their placement in the institution operating an LTOP. Inappropriate institution transfers and placements could result in an escape due to inadequate supervision or in bodily injury to inmates or staff as a result of physical altercation.

**New subsection 3040.2(c)(2) is adopted** to establish that inmates must have a criminogenic need to be eligible to participate in LTOP. The criminogenic need is established through an Authomated Need Assessment Tool. Currently, the Department uses the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS). This provision is necessary to ensure that those inmates most in need of specific rehabilitative programming receive it.

**New subsection 3040.2(c)(3) is adopted** to establish that inmates must be serving an indeterminate sentence subject to a parole suitability hearing for participation in the LTOP, and establishes time constraints for the parole suitability hearings. These time constraints are necessary to ensure that inmates have enough in custody time remaining to complete their recommended LTOP CBT assignments. The time constraints also ensure that inmates are not transferred to an institution for participation in an LTOP during the preparation phase of their parole suitability hearing, per subsection 3379(a)(3) of the Title 15. This is important to ensure parole board suitability hearings are not postponed, canceled or delayed after required documents necessary to conduct the hearings have been prepared and/or the hearings have been scheduled.

**New subsection 3040.2(d) is adopted** to establish that inmates who receive services through the Department's Mental Health Delivery System (MHSDS) at the Correctional Clinical Case Management System (CCCMS) or the Enhanced Outpatient (EOP) levels of care, may participate in the LTOP if they meet the listed eligibility criteria. Due to the intensive level of mental health care, EOP inmates will be approved on a case-by-case basis only. This provision is necessary to establish that psychiatric needs and services take priority over rehabilitative programming.

The MHSDS serves inmates with serious mental disorders through CCCMS, which is available at all institutions, and through the EOP program. EOP provides a more intensive level of outpatient mental health care. It is characterized by a separate housing unit and structured activities for mentally ill inmate-patients who, because of their mental illness, experience adjustment difficulties in a General Population setting yet are not so impaired as to require 24-hour inpatient care.

**New subsection 3040.2(e) is adopted** to establish LTOP exclusionary criteria, including inmates who have been found guilty of a Division A, B, or C disciplinary offense within the last 12 months. This is necessary to ensure safety and security of staff and inmates, and to maximize the use of limited resources by excluding inmates who demonstrate a pattern of recent behavior that is unacceptable. Division A, B, and C violations are the most serious offenses and include such things as murder, attempted murder, battery on a peace officer, attempted escape, and arson. These disciplinary offenses are described in greater detail in section 3323 of the Title 15.

**New subsection 3040.2(e)(1) is adopted** to establish that inmates are excluded from the LTOP if they have committed a serious disciplinary offenses categorized as Division “A-1” through “C” as described in section 3323, except for the manufactured alcohol or possession of controlled substances, during the last 12 months. This is necessary for safety and security of the institution by excluding inmates who demonstrate a pattern of recent behavior that is unacceptable. Based on the nature of their negative behavior, these inmates are considered disruptive to institutional programming, and their behavior must be observed for 12 months before making a determination that the inmate can safely and positively participate in a rehabilitative program. However, inmates who are found guilty of a Division C offense for the manufacture of alcohol or the possession of controlled substances are still eligible for LTOP as this offense is not as inherently disruptive or dangerous as the other Division C disciplinary offenses. Inmates must be observed for 12 months because based upon experience, the Department considers this time a sufficient observation period, to demonstrate improved behavior.

**New subsection 3040.2(e)(2) is adopted** to establish that inmates who have served, or who were assessed, a SHU term within the last 12 months are excluded from participation in an LTOP. Inmates who commit serious disciplinary offenses, such as the offenses described above in subsection 3040.2(e)(1), and further detailed in section 3323 of the Title 15, are subject to serving a SHU term. For the safety and security of the institution, it is necessary to exclude these inmates due to their recent serious disciplinary and disruptive behavior. LTOP is a rehabilitative program offered to inmates for their benefit, addressing their specific needs in regards to criminality and release from prison. However, this rehabilitative program is not a right and inmate candidate selection for participation in this program is selective, based in part on institution safety and inmate success in the program. Selection is also based on an inmate’s recent behavior and their demonstrated willingness to change their behavior for the better. This provision also maximizes the use of limited resources as disruptive inmates could be removed early from the LTOP due to negative behavior.

**New subsection 3040.2(f) is adopted** to establish an assignment and transfer process for LTOP participants. This is necessary to coordinate due process in regards to inmate transfers, as described in section 3379 of the Title 15. This is also necessary for clarification to staff and inmates by establishing program logistics into regulations.

**New subsection 3040.2(f)(1) is adopted** to establish that inmates shall be placed into or removed from the LTOP by classification committee action. This is necessary for uniformity and consistency in regards to inmate placement for appropriate work, education, vocation, therapeutic, or other institution program as the classification committee criteria described in subsections 3040(c)(1)-(5) are applied in each case. In addition, this provision is only intended for the placement and removal of an inmate from an LTOP assignment, and not for the movement of an inmate between various courses within LTOP.

**New subsections 3040.2(f)(2) through 3040.2(f)(2)(B) are adopted** to establish a priority system for placement into an LTOP assignment. Inmates who are closest to their next subsequent parole suitability hearing will receive priority followed by the inmates who are closest to their next initial parole suitability hearing. These provisions are necessary to maximize the use of limited program space and resources by ensuring that inmates are placed into the LTOP in accordance with the closeness of their parole date and the likelihood of their parole occurring. Inmates who are serving indeterminate sentences normally serve long periods of incarceration prior to being granted parole by the BPH. Historically, these parole dates are granted during a subsequent parole suitability hearing rather than at an initial parole suitability hearing.

**New subsection 3040.2(f)(3) is adopted** to establish that inmates may participate in the LTOP and another institutional assignment in combination. This is necessary to assist with institutional operations as inmates are often assigned duties that support and benefit the day-to-day operations of a prison. This provision also ensures that inmates are able to maintain their participation in other programs which may also be part of their parole plans. Participation in these other institutional assignments is also reviewed by the BPH as part of the inmate's parole suitability hearing.

**New subsection 3040.2(f)(4) is adopted** to establish a process for placement into a work assignment for inmates upon completion of their LTOP assignment similar to the one held prior to participating in the LTOP. LTOP inmates will receive priority over other inmates waiting for a similar assignment. This is necessary to ensure that inmates are not penalized for participating in a voluntary program and lose their work assignment or pay scale. This is also necessary to create incentive to participate in the LTOP because without this priority provision, inmates would be placed on the lowest priority for work reassignment upon completion of their LTOP assignment under existing rules.

**New subsection 3040.2(f)(5) is adopted** to establish that inmates may be transferred to participate in an LTOP and that these transfers are only temporary as inmates will be transferred back upon completion of the LTOP. This is necessary to prevent the parole suitability hearing process at an LTOP institution from becoming overburdened as LTOP participants are long term offenders subject to parole suitability hearings, as specified in subsection 3040.2(a).

In addition, as discussed on page one of this document, this subsection is duplicative of the information that is provided under new subsection 3379(a)(11) as the transfer information in regards to LTOP participants is relevant in both sections of Title 15-the section describing the LTOP, and the section concerning the general transfer of inmates.

## **Section 3041. Performance.**

**Subsections 3041(a) – 3041(c) remain unchanged.**

**Subsection 3041(d) is amended** to add LTOP participants to the list of educational assignments wherein inmates must cooperate with the instructor of the program and comply with instructions and program participation requirements. This maintains order in the LTOP assignments and is necessary to ensure safety and security of the institution.

**Subsection 3041(e) remains unchanged.**

## **Section 3041.3. Inmate/Parolee Access to Computers.**

**Subsection 3041.3(a) is amended** to establish that LTOP participants shall only access a computer for their authorized LTOP assignment, unless authorized by the Information Security Officer of the institution. This is necessary for the safety and security of the institution by restricting an LTOP participant's computer use.

**Subsections 3041.3(b) – 3041.3(c)(1) remain unchanged.**

**Subsection 3041.3(c)(2) is amended** to establish that LTOP participants will be assigned to a computer for their use during their LTOP assignment and may not use any other computer. This provision is necessary for the safety and security of the institution by assigning LTOP participants to one computer so

the inmate's computer use can be tracked and monitored to ensure the use is for the authorized assignment.

**Subsections 3041.3(d) – 3041.3(n) remain unchanged.**

## **Article 3.5 Credits**

### **Section 3043.6. Impact of Transfer on Credit Earning.**

**Subsections 3043.6(a) – 3043.6(a)(2) remain unchanged.**

**Subsection 3043.6(a)(3) is amended** to establish that inmates who have completed an LTOP assignment are not subject to the Department's standard waiting list merging process. Inmates may have been removed from an assignment that provides valuable job skills that will be relied upon in the event they are granted parole to participate in the LTOP, and without this exception, upon completion on their LTOP assignment, inmates would be placed on the lowest priority for work reassignment. This provision is necessary to ensure that inmates are not penalized for participating in an LTOP.

**Subsections 3043.6(a)(3)(A) – 3046.6(f) remain unchanged.**

### **Section 3379. Inmate Transfers.**

**Subsections 3379(a) – 3379(a)(10)(B)(2) remain unchanged.**

**New subsection 3379(a)(11) is adopted** to establish that inmates may be transferred to participate in an LTOP. However, language specifies that these transfers are only temporary as inmates will be transferred back upon completion of the LTOP. This is necessary to prevent the parole suitability hearing process at an LTOP institution from becoming overburdened as LTOP participants are long term offenders, as specified in subsection 3040.2(a), and are subject to parole suitability hearings.

In addition, as discussed on page one of this document, this subsection is duplicative of the information that is provided under new subsection 3040.2(f)(5) as the transfer information in regards to LTOP participants is relevant in both sections of Title 15-the section describing the LTOP, and the section concerning the general transfer of inmates.

**Subsections 3379(b) – 3379(d)(4) remain unchanged.**

**Section 3999.15, Pilot Program for Long-Term Offenders, is repealed.**