

DEPARTMENT OF CORRECTIONS AND REHABILITATION

DIVISION OF JUVENILE JUSTICE

Title 15, California Code of Regulations

Sections 4166, 4168, 4168.5, 4168.7, 4169, 4169.5, 4169.9

Sections 4170.5, 4171, 4172, 4173, 4174, 4174.5, 4174.6

Acceptance and Rejection Criteria for Youth with

Medical or Mental Health Conditions

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) proposes to adopt sections 4165, 4165.5, 4166, 4167, 4168, 4168.5, 4168.7, 4169, 4169.5, 4169.9, 4170, 4170.5, 4171, 4171.5, 4172, 4173, 4174, 4174.5, 4174.6 to the Title 15, Division 4, of the California Code of Regulations (CCR) pertaining to acceptance and rejection criteria for youth with medical or mental health conditions, criminal and juvenile courts.

The DJJ has not scheduled a public hearing on this proposed action. However, the DJJ will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the DJJ. Comments may also be submitted by facsimile (FAX) at 916-262-2608 or by email to DJJ-PPPR@cdcr.ca.gov. The written comment period closes at 5:00 p.m. on 11-16-2009. The DJJ will consider only comments received at the DJJ offices by that time. Submit comments to, Policy, Procedures, Programs and Regulations Unit (PPP&R), 4241 Williamsborough Drive, Suite 117, Sacramento, CA 95823.

AUTHORITY

In November, 2004, The Superior Court of California in *Farrell v. Cate*, County of Alameda, Case No. RG 03079344, issued orders in a Consent Decree under which the DJJ agreed to develop and implement a comprehensive remedial plan that would improve the standard system of health care and accountability.

Section 1712 of the Welfare and Institutions Code (W&I) Code establishes the DJJ has the responsibility to make and enforce all rules appropriate to the proper accomplishment of the functions of DJJ.

REFERENCE

Section 1004 of the W&I Code establishes the DJJ shall have charge of the persons committed to or confined in DJJ facilities and shall provide for their care, supervision, education, training, employment, discipline and government.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking clarifies and makes specific Section 1004 of the W&I Code that states the DJJ shall have charge of the persons committed to or confined in DJJ facilities and shall provide for their care, supervision, education, training, employment, discipline and government.

The Consent Decree requires the Division of Juvenile Justice (DJJ) to develop formal criteria for accepting youths into the DJJ pursuant to Welfare and Institutions Code Section 736. It further prohibits DJJ from accepting more youths than can be materially benefited by the DJJ's rehabilitative and educational discipline, and it prohibits the Division from accepting youths for whom the DJJ does not have adequate facilities.

The proposed regulations establish a process for the Acceptance and Rejection Criteria for Youth with Medical or Mental Health Conditions. It is in response to the Consent Decree and addresses youth with complex medical conditions, persistent and serious mental health care needs and/or developmental disabilities who could not materially benefit from a commitment to DJJ and who may not be able to materially benefit from the type of rehabilitative/treatment program outlined in the Safety and Welfare or other remedial plans and who could better be served in alternate programs. To further implement the policy, the DJJ submits these proposed regulations.

CONTACT PERSONS

Please direct any inquiries regarding this action to:

Phyllis Green
Policy, Procedures, Programs and Regulations Unit
Division of Juvenile Justice
(916) 262-3178

Questions regarding the substance of the proposed regulation should be directed to:

Eleanor Silva
Intake and Court Services Unit
Division of Juvenile Justice
(916) 262-0853

In the event the contact persons are not available, inquiries may be directed to the following back up contact person:

Angelina Parker
Policy, Procedures, Programs and Regulations Unit
Division of Juvenile Justice
(916) 262-1550

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts or a mandate which requires reimbursement pursuant to Government Code Sections 17500-17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other non-discretionary costs or savings imposed on local agencies: None.
- Costs or savings in federal funding to the state: None
- Significant, statewide adverse economic impact, directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: None.

EFFECT ON HOUSING COSTS

The DJJ has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact on housing costs.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The DJJ has 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.

EFFECT ON SMALL BUSINESS

The DJJ has determined that the proposed regulations will not affect small business due to the fact the rules apply only to practitioners employed by the DJJ.

ASSESSMENTS REGARDING EFFECTS ON JOBS/BUSINESSES

The DJJ has determined that the proposed regulations will have no affect on the creation of new or the elimination of existing jobs or businesses, or the expansion of businesses within the State of California.

ALTERNATIVES CONSIDERED

The DJJ has determined that no reasonable alternative has been identified and brought to the attention of the agency or would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The DJJ has made available the initial statement of reasons and the proposed text of the regulations. All documents pertaining to this regulatory action (rulemaking file) will be available on the California Department of Corrections, Division of Juvenile Justice website www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons will be made available upon request from the agency contact person or posted on the above DJJ website.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the DJJ may adopt the proposed regulations as set forth above without further notice.

If the regulation text is modified by the DJJ and the changes are sufficiently related to the originally proposed action, the DJJ will make the modified text available (with the changes clearly indicated) to the public for at least 15 days prior to adopting the amended regulations. The DJJ will accept written comments pertaining to only the modified text during the 15-day period prior to adoption of the revised text. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Angelina Parker at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the California Department of Corrections, Division of Juvenile Justice website www.cdcr.ca.gov.