



## PRISON LAW OFFICE

General Delivery, San Quentin, CA 94964-0001  
Telephone (510) 280-2621 • Fax (510) 280-2704  
www.prisonlaw.com

**Director:**  
Donald Specter

**Deputy Director:**  
Sara Norman

**Legal Director:**  
Margot Mendelson

**Staff Attorneys:**  
Rana Anabtawi  
Patrick Booth  
Tess Borden  
Claudia Ceseña  
Steven Fama  
Alison Hardy  
Sophie Hart  
Jacob Hutt  
A.D. Lewis  
Rita Lomio

### *Your Responsibility When Using the Information Provided Below:*

When putting this material together, we did our best to give you useful and accurate information because we know that people in prison often have trouble getting legal information and we cannot give individual advice to everyone who asks for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in your institution's law library.

### **Information About "R" Classification Suffixes** Updated September 2022

This letter addresses common questions about the California Department of Corrections and Rehabilitation (CDCR) "R" classification suffix. The rules about "R" suffixes are in the CDCR regulations (Title 15) at 15 CCR § 3377.1. The text of that regulation is included at the end of this letter.

#### **Who Can Be Classified With an "R" Suffix?**

Usually an "R" classification suffix is imposed during reception center processing or when a person has their first classification review at their assigned prison. However, the "R" suffix can be imposed at any time if CDCR receives new information showing that a person meets the criteria for an "R" suffix.<sup>1</sup>

A classification committee *will* put an "R" suffix on the classification papers of any person who:

- has been convicted of a crime or juvenile offense that requires them to register as a sex offender per Penal Code § 290; OR
- had an "R" suffix during a prior prison term (so long as it is consistent with the current regulations); OR
- has ever had their parole revoked for an adult or juvenile parole violation equivalent to an offense listed in Penal Code § 290; OR

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<sup>1</sup> 15 CCR § 3377.1(b)(1), (3), (4).

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- is found guilty of a Division A-1, A-2, or B prison rule violation that is equivalent to a Penal Code § 290 offense.<sup>2</sup>

An exception is that an R” suffix cannot be applied for an offense for which a person has received a Certificate of Rehabilitation.<sup>3</sup>

A classification committee *may* put an “R” suffix on a person who:

- was detained, arrested, or charged with a crime or juvenile offense listed in Penal Code § 290, even if they were not convicted or found guilty of a crime, juvenile offense, or parole violation. This means that an “R” suffix may be imposed even if the charge was dropped by the prosecutor, dismissed by the court as part of a plea bargain or in the interest of justice, or ended in a mistrial or hung jury. The exception is that an “R” suffix cannot be imposed if the person was actually acquitted (found not guilty) in court.<sup>4</sup>

When deciding whether to apply an “R” suffix based on accusations or charges that were never proven in court, the classification committee must consider the police reports and any District Attorney’s comments about what happened. If no such documentation is available, an “R” suffix may be imposed only with special approval of the CDCR Departmental Review Board (DRB).<sup>5</sup> Also, an “R” suffix that was rejected by another institution’s Institution Classification Committee (ICC) cannot be applied later unless the ICC at the new institution has “new and compelling information” or the cases is referred to the DRB.<sup>6</sup>

In addition to an “R” suffix, a person may have a “SEX” administrative determinant on their classification documents. The regulations say that this administrative determinant should be applied to someone who “has a prior incidence of rape, oral copulation, sodomy, or a lewd and lascivious act which requires restricted custody or placement.”<sup>7</sup>

## How Will an “R” Suffix Affect Someone?

An “R” suffix can affect where the person is housed and what programs they can participate in. Someone with an “R” suffix will have a mandatory minimum classification score of 19, and thus cannot be housed in a facility with a security level lower than Level II.<sup>8</sup> A person with an R suffix also cannot be assigned to work outside of a security fence area.<sup>9</sup> This means that people with “R” suffixes are not eligible for placements in Minimum Custody facilities or fire camps where they could earn increased amounts of good conduct credits.

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<sup>2</sup> 15 CCR § 3377.1(b)(1)-(3)(A).

<sup>3</sup> 15 CCR § 3377.1(b)(11).

<sup>4</sup> 15 CCR § 3377.1(b)(3) and (9).

<sup>5</sup> 15 CCR § 3377.1(b)(5).

<sup>6</sup> 15 CCR § 3377.1(b)(8).

<sup>7</sup> 15 CCR § 3375.2 (b)(23).

<sup>8</sup> 15 CCR § 3177.1(b)(10), § 3375.1(a), § 3375.2(a)(2) and (a)(10)(F), § 3375.3(d); CDCR Classification Scoresheet.

<sup>9</sup> 15 CCR § 3177.1(b)(10), 3375.2(a)(2).

People with “R” suffixes, especially those with convictions for crimes involving children, are sometimes harassed or victimized by prison staff or other prisoners. In such cases, they may need to seek placement in an Administrative Segregation Unit (ASU, for short-term protection), a transfer to another facility, a single cell classification (“S” suffix), or endorsement to a Sensitive Needs Yard (SNY).

### **How Can Someone Get an “R” Suffix Removed?**

If a Unit Classification Committee (UCC) disagrees with another UCC’s decision to apply an “R” suffix or “finds that an inmate may no longer require an “R” suffix,” the UCC can refer the case to the Institution Classification Committee (ICC). The ICC can then review the case and decide whether to keep or remove an “R” suffix.<sup>10</sup> However, an “R” suffix that was placed by an ICC at another institution can be removed only if (1) the ICC finds there is “new and compelling information” *or* (2) the ICC sends the case for review by the DRB and the DRB decides to remove the “R” suffix.<sup>11</sup>

If an “R” suffix is imposed improperly or if the ICC refuses to review and remove an “R” suffix, a person can submit a CDCR Form 602-1 administrative grievance. If the grievance is denied, the person can then submit a Form 602-2 administrative appeal. In the grievance and/or appeal the person should say why the “R” suffix is not justified. For example, the person might be able to argue that CDCR staff failed to follow the regulations, that the “R” suffix is not supported by sufficient documentation, or that there is new information showing that the “R” suffix is not supported.

If an administrative grievance and appeal are not successful, a person can file a state court petition for writ of habeas corpus asking a court to order CDCR to remove the “R” suffix. However, people should be aware that the courts give CDCR officials a lot of discretion in interpreting and applying the classification regulations. A court will uphold a CDCR decision to impose an “R” suffix as long as it is in accord with the regulations, is based on “some evidence” that the person possibly committed a sex offense, and is not arbitrary or irrational.<sup>12</sup>

If an “R” suffix is removed, the person will then be eligible for any housing or assignment for which they would otherwise qualify if they had never had an “R” suffix.<sup>13</sup>

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On request, Prison Law Office can provide free information packets on CDCR administrative grievances and appeals, state court petitions for writ of habeas corpus, and protective custody or other options for people who are having safety problems due to an “R” suffix. These packets are also available on the Resources page of Prison Law Office’s website at [www.prisonlaw.com](http://www.prisonlaw.com).

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<sup>10</sup> 15 CCR § 3177.1(b)(6) and (7).

<sup>11</sup> 15 CCR § 3177.1(b)(8).

<sup>12</sup> See *In re Wilson* (1988) 202 Cal.App.3d 661, 666-667 [249 Cal.Rptr.36]; *In re Farley* (2003) 109 Cal.App.4th 1356, 1362-1364 [1 Cal.Rptr.3d 108].

<sup>13</sup> 15 CCR § 3177.1(b)(12).



**California Code of Regulations, Title 15, § 3377.1. Inmate Custody Designations.**

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(b) An “R” suffix shall be affixed to an inmate's custody designation to ensure the safety of inmates, correctional personnel, and the general public by identifying inmates who have a history of specific sex offenses as outlined in Penal Code (PC) Section 290.

(1) The “R” suffix shall be affixed during reception center processing if one of the following four criteria applies:

(A) The inmate is required to register per PC Section 290.

(B) The inmate's parole was revoked by the Board of Parole Hearings (BPH) formerly known as the Board of Prison Terms/Parole Hearing Division, Good Cause/Probable Cause Finding of an offense that is equivalent to an offense listed in PC Section 290.

(C) The inmate had a BPH formerly known as California Youth Authority/Youth Offender Parole Board sustained adjudication of an offense that is equivalent to an offense listed in PC Section 290.

(D) The inmate had a valid “R” suffix evaluation as defined in this section, resulting in the “R” suffix being affixed.

(2) Inmates with a prior “R” suffix evaluation inconsistent with Section 3377.1(b)(5) shall not have an “R” suffix applied. An “R” suffix evaluation must be completed at the receiving institution.

(3) Within six months of reception or at any time during an incarceration, inmates with records of arrest, detention, or charge of any offenses listed in PC Section 290, shall appear before a classification committee to determine the need to affix an “R” suffix to the inmate's custody designation. The committee shall consider the arrest reports and district attorney's comments related to each arrest.

(A) An inmate found guilty in a disciplinary hearing of a Division A-1, A-2, or B offense that is equivalent to an offense listed in PC Section 290 shall have an “R” suffix evaluation completed by a classification committee.

(4) The receiving institution's initial classification committee shall affix the “R” suffix designation to an inmate's custody during initial classification committee review when it is determined the “R” suffix was not applied at the reception center and the inmate meets one of the criteria listed in Subsection 3377.1(b)(1).

(5) When completing an “R” suffix evaluation, the classification committee shall consider the arrest report(s) and district attorney's comments. However, a classification committee may affix an “R” suffix if the arrest report(s) are available and the district attorney's comments are unavailable. The classification committee shall document in a CDC Form 128-G the attempts/steps taken to obtain the required documentation.

(A) An “R” suffix shall not be affixed when the required documentation is not available for review, unless approved by Departmental Review Board (DRB) decision. If the arrest report is unavailable, the district attorney's comments or any other court or official documents shall be considered if available.

(B) DRB approval is required to affix an “R” suffix to an inmate's degree of custody if the required relevant documents are not available to complete an “R” suffix evaluation.

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(6) If a Unit Classification Committee (UCC) finds that an inmate may no longer require an “R” suffix, the committee shall refer the case to the Institution Classification Committee (ICC) for review.

(7) Should a different facility UCC at the same institution disagree with the initial UCC's decision to either affix or not affix the “R” suffix, the committee must refer the case to ICC for review.

(8) ICC can reverse an “R” suffix evaluation by a previous institution's ICC only if new and compelling information is obtained. Otherwise, the case shall be referred for a DRB decision.

(9) An “R” suffix shall not be applied if the inmate was acquitted/found not guilty of the sex related charges in a court of law even if BPH Good Cause/Probable Cause Finding revoked his/her parole for those sex related charges.

(10) Inmates with “R” suffixes shall not be housed in a Level I facility and shall not be assigned outside the security perimeter.

(11) Inmates who have obtained a valid Certificate of Rehabilitation pursuant to PC Section 4852.01 shall not have an “R” suffix affixed.

(12) An inmate whose “R” suffix has been removed shall be eligible for any housing or assignment for which they otherwise would qualify had the “R” suffix never been designated.

(13) The following terms are defined for the purposes of the “R” suffix custody designation:

(A) Institution means a large facility or complex of subfacilities with a secure (fenced or walled) perimeter headed by a warden.

(B) Facility means a subfacility of an institution headed by a facility captain.

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