

1 DONALD SPECTER – 083925  
RITA K. LOMIO – 254501  
2 MARGOT MENDELSON – 268583  
JACOB J. HUTT – 804428 (MJP)  
3 PRISON LAW OFFICE  
1917 Fifth Street  
4 Berkeley, California 94710-1916  
Telephone: (510) 280-2621  
5 Facsimile: (510) 280-2704

6 MICHAEL W. BIEN – 096891  
GAY C. GRUNFELD – 121944  
7 THOMAS NOLAN – 169692  
PENNY GODBOLD – 226925  
8 CAROLINE JACKSON – 329980  
ROSEN BIEN  
9 GALVAN & GRUNFELD LLP  
101 Mission Street, Sixth Floor  
10 San Francisco, California 94105-1738  
Telephone: (415) 433-6830  
11 Facsimile: (415) 433-7104

12 LINDA D. KILB – 136101  
DISABILITY RIGHTS EDUCATION &  
13 DEFENSE FUND, INC.  
3075 Adeline Street, Suite 201  
14 Berkeley, California 94703  
Telephone: (510) 644-2555  
15 Facsimile: (510) 841-8645

16 Attorneys for Plaintiffs

17

18 UNITED STATES DISTRICT COURT  
19 NORTHERN DISTRICT OF CALIFORNIA

20

21 JOHN ARMSTRONG, et al.,  
22 Plaintiffs,  
23 v.  
24 GAVIN NEWSOM, et al.,  
25 Defendants.

Case No. C94 2307 CW

**DECLARATION OF RITA K. LOMIO  
IN SUPPORT OF PLAINTIFFS’  
RESPONSE TO COURT EXPERT’S  
SECOND REPORT REGARDING  
TREATMENT OF PEOPLE WITH  
DISABILITIES AT SATF  
[ECF NO. 3500]**

Judge: Hon. Claudia Wilken

26

27

28

[4356643.2]

1 I, Rita K. Lomio, declare:

2 1. I am an attorney duly admitted to practice before this Court. I am a Senior  
3 Staff Attorney in the Prison Law Office, counsel of record for Plaintiffs. I also am counsel  
4 of record in *Plata v. Newsom*, Case No. 01-cv-01351 (N.D. Cal.). I have personal  
5 knowledge of the facts set forth herein, and if called as a witness, I could competently so  
6 testify. I make this declaration in support of Plaintiffs' Response to the Court Expert's  
7 Second Report Regarding Treatment of People with Disabilities at SATF.

### 8 **Provision and Tracking of Assistive Devices**

9 2. Counsel for Defendants regularly produce a spreadsheet to Plaintiffs'  
10 counsel entitled, "Disability Inmate Roster," which is sometimes referred to as the "SOMS  
11 DPP Roster." The spreadsheet lists all people with a Disability Placement Program  
12 ("DPP") code and/or a documented learning disability. The spreadsheet includes a column  
13 for each person's "Durable Medical Equipment." According to page 53 of SATF OP 403,  
14 "[a] current SOMS roster (updated weekly), shall be maintained in each housing unit ...."  
15 See Exhibit 10, Declaration of Jacob J. Hutt in Support of Plaintiffs' Response to Court  
16 Expert's Second Report Regarding Treatment of People with Disabilities at SATF, filed  
17 herewith. Since 2016, I have regularly visited housing units on all yards at SATF. In the  
18 housing units, I have observed that housing officers have access to a binder that includes  
19 information related to *Armstrong*, including a printout of the SOMS DPP Roster for at  
20 least those people housed in that particular unit. The printout lists each person's Durable  
21 Medical Equipment ("DME").

22 3. On September 19, 2023, I reviewed Section 3.6.1 of the HCDOM, entitled  
23 "Durable Medical Equipment and Medical Supply." That section states that CCHCS shall  
24 provide DME and medical supplies to California Department of Corrections and Rehabili-  
25 tation ("CDCR") patients "at no charge, and as medically necessary to ensure the patients  
26 have equal access to prison services, programs, or activities." HCDOM § 3.6.1(a)(1),  
27 <https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-ch03-art6.1.pdf>.

28 4. In a joint memorandum entitled, "Discontinuation of Payment for Durable

[4356643.2]

1 Medical Equipment,” dated February 14, 2018, CDCR and CCHCS explained why CDCR  
2 patients “will no longer be required to purchase DME.” The memorandum, authored by  
3 the Directors of CCHCS and CDCR Division of Adult Institutions, stated: “Our current  
4 practice is not consistent with other government run healthcare organizations. It also leads  
5 to inconsistencies in policy application, drives appeal workload, and results in unnecessary  
6 workload for little gain.” The memorandum listed a number of benefits of the change,  
7 including that “[p]atients will not refuse to be issued medically-necessary DME in order to  
8 avoid losing funds from their trust account.” A true and correct copy of this memorandum,  
9 dated February 14, 2018, is attached as **Exhibit 1**.

10         5.         On June 30, 2023, a representative from the Court Expert’s office asked to  
11 meet with the parties to understand “what has been done at a headquarters level in  
12 response to our initial report ... regarding what steps CDCR has taken in response to our  
13 recommendation that CDCR ‘clarify through policy or memorandum the process and staff  
14 accountable for ordering and obtaining appliances or devices (such as typewriters or other  
15 assistive writing devices) that are not considered medical DME.’” The representative also  
16 asked to discuss “CDCR’s May 1, 2023 response regarding SATF class member  
17 [Person F], as well as CDCR’s response to Plaintiffs’ April 11, 2023 letter regarding non-  
18 medical assistive devices.” Several colleagues and I met with the Court Expert and  
19 representatives for Defendants regarding these topics on August 3, 2023. At that meeting,  
20 Defendants were not prepared to provide a response to Plaintiffs’ April 11, 2023 letter,  
21 stated that Person F in fact should not have received an ErgoWriter because it is not  
22 available in MaxiAids, and stated that they were still evaluating whether and when to  
23 charge class members for assistive devices. I asked when Defendants would provide their  
24 position on the issue of payment. Defendants declined to give a timeframe for providing a  
25 response, and said that they were willing to meet again to discuss after they had reviewed  
26 the issue and had more information to share. Defendants have not reached out to schedule  
27 a follow-up meeting yet.

## Reasonable Accommodation Process at SATF

1  
2           6.       On April 26, 2023, I observed the Reasonable Accommodation Panel  
3 (“RAP”) meeting at SATF remotely via Microsoft Teams. At that meeting, the RAP  
4 discussed a number of CDCR 1824 reasonable accommodation requests submitted by  
5 people at SATF, including a request by a class member who wrote, “I have trouble  
6 writing,” and “I am visually [sic] impaired.” The class member, who was designated DPV  
7 at the time, wrote: “There is a Device that helps guide people as they write. I need one.”  
8 The CDCR 1824 was assigned log number SATF-D-23-00802. The RAP discussion of the  
9 request was short at the April 26, 2023 meeting. A member of the ADA office reported to  
10 the RAP members that the class member had told the Field Training Sergeant (FTS) who  
11 interviewed him in response to the CDCR 1824 that the device should be provided free of  
12 charge. The ADA Coordinator responded that the issue of who should pay was a statewide  
13 issue that required discussion outside of the RAP meeting.

14           7.       The resulting RAP response, dated May 16, 2023, states: “Reasonable  
15 accommodation for blind inmates that need assistance with writing currently comes in the  
16 form of assistance with writing from ADA workers. If there are no ADA workers  
17 available, you may request assistance from staff. If you would like a Plastic Letter Writing  
18 Guide, you may utilize the SPO form to request approval to purchase assistive devices  
19 from the maxi-aids catalog.” A true and correct copy of the CDCR 1824, RAP response,  
20 and related paperwork is attached as **Exhibit 2**.

21           8.       On September 14, 2023, I visited the MaxiAids website at  
22 <https://www.maxiaids.com>. I searched for “Plastic Letter Writing Guide” and received the  
23 following product results: “Letter Writing Guide – Superior” (\$3.75), “Letter Writing  
24 Guide – Regular” (\$2.99) and “Wide Space Writing Guide – Regular” (\$3.14). The  
25 product page for “Letter Writing Guide – Regular Black Plastic” states: “This writing  
26 guide makes writing easy for the visually impaired. No more squinting and eye strain  
27 when you are trying to write. Simply use the writing guide with 8 1/2 x 11 unlined paper  
28 and never have to worry about your penmanship again. Provides (13) 1/2 wide openings



1 for easy writing.” A true and correct copy of the MaxiAids product information page for  
2 “Letter Writing Guide – Regular Black Plastic” is attached as **Exhibit 3**.

3 **Person F**

4 9. In his first report, filed on December 20, 2022, the Court Expert discussed  
5 the efforts of a class member at SATF, identified as Person F, to obtain an ErgoWriter to  
6 independently write. *See* Dkt. No. 3446 at 43-45 (detailing Plaintiffs’ advocacy regarding  
7 same). Plaintiffs’ counsel’s previous advocacy on behalf of Person F is discussed in my  
8 declaration in support of Plaintiffs’ response to Court Expert’s first report, filed on  
9 February 7, 2023. *See* Dkt. No. 3459-1 at 5-6.

10 10. As noted in my previous declaration, in November 2022, Tania Amarillas, an  
11 investigator at my office, sent an email to counsel for Defendants regarding the long delay  
12 in providing Person F an ErgoWriter. She asked that Person F be provided the ErgoWriter  
13 immediately. *See* Dkt. No. 3459-1, Ex. 23 (at pages 224-25). Ramon Ruiz, an attorney  
14 with the CDCR Office of Legal Affairs, responded to this email in a letter dated May 1,  
15 2023. Mr. Ruiz wrote that Person F was approved to purchase a different device (called a  
16 Steady Write) instead of an ErgoWriter “because the Ergo Writer is not available for  
17 purchase in the Maxi Aids catalog.” A true and correct copy of Mr. Ruiz’s letter dated  
18 May 1, 2023, is attached as **Exhibit 4**.

19 11. In response, on May 3, 2023, Ms. Amarillas sent an email to Mr. Ruiz  
20 explaining that the Steady Write did not accommodate Person F’s disability and requesting  
21 that Person F be provided an ErgoWriter at no cost. If Defendants would not provide the  
22 device at no cost, Ms. Amarillas requested an explanation as to why. Over two months  
23 later, on July 5, 2023, Mr. Ruiz responded to the May 3, 2023 email, stating that Person F  
24 was “authorized to purchase an Ergo Writer and said his mother will be purchasing it for  
25 him.” Mr. Ruiz continued: “Regarding whether CDCR will provide [Person F] with an  
26 Ergo Writer at no cost, in our previous response, we outlined our policy regarding ADA  
27 personal property.” A true and correct copy of the emails between Ms. Amarillas and  
28 Mr. Ruiz, dated May 3 and July 5, 2023, is attached as **Exhibit 5**.

1           12.     The previous response Mr. Ruiz referred to in his July 5, 2023 email does not  
 2 include an explanation as to why SATF would not pay for the device. Instead, it explains  
 3 the special purchase order process: “As to your request to provide [Person F] an Ergo  
 4 Writer, our policy regarding ADA personal property requires an incarcerated person (IP) to  
 5 submit a Special Purchase Order Form to the Americans with Disabilities Act Coordinator  
 6 (ADAC). Once requested, the ADAC either approves or denies the request. If approved,  
 7 the IP then selects the device they want to purchase from a catalog and it is purchased  
 8 through department-approved vendors.” *See* Exhibit 4.

9           13.     Person F provided Plaintiffs’ counsel a copy of a CDCR 602 response he  
 10 received dated June 24, 2023, authorizing his mother to purchase an ErgoWriter for him.  
 11 The Staff Signature is listed as “B. Phillips.” Bryan D. Phillips is the current warden at  
 12 SATF. The response, which was assigned log number 409934, states:

13           The ADA Coordinator met with you personally on June 23, 2023 and  
 14 discussed the matter with you. You agreed upon a vendor from which the  
 15 ADA Coordinator approved your mother to purchase an Ergo Writer for  
 16 you. ... You were instructed to mail [the Special Purchase Order Form for  
 Medical / ADA Orders] to your mother, who is approved to purchase the  
 Ergo Writer for you, and have it delivered directly to the institution from the  
 vendor. ...

17           Please note, this action is taking place as a form of reasonable  
 18 accommodation. The Ergo Writer will not be considered as a prescribed  
 medical device. It is not Durable Medical Equipment (DME). ...

19           You are authorized to purchase an Ergo Writer as described above. The  
 20 institution will not purchase the item for you.

21 A true and correct copy of the CDCR 602 response produced to Plaintiffs’ counsel, dated  
 22 June 24, 2023, is attached as **Exhibit 6**.

23           14.     Defendants’ Response to the Court Expert’s Second Report Regarding  
 24 Treatment of People With Disabilities at Substance Abuse Treatment Facility  
 25 (“Defendants’ Response”) states that non-medical members of the SATF RAP, including  
 26 the ADA Coordinator, were “re-educated on their independent duty to provide a  
 27 reasonable accommodation to an incarcerated person with a disability even if the  
 28 accommodation is not deemed medically necessary in accordance with current policy”:

1 This focused training stressed that if the non-medical accommodation is  
 2 determined by the healthcare staff not to be contra-indicated (i.e., not  
 3 medically harmful to the class member), then the ADAC approves the  
 4 requested accommodation and a DME receipt for the approved non-medical  
 5 assistive device is entered into the CERNER system. This allows for it to be  
 6 reflected in the incarcerated person’s SOMS file under DME—to ensure  
 7 custody staff is properly informed and to avoid confiscation of non-medical  
 8 assistive devices approved through the 1824 process.

6 Dkt. No. 3504 at 8 (internal citations omitted).

7 15. I did not find evidence that this process was followed to document  
 8 Person F’s ErgoWriter. First, I reviewed the SOMS DPP Roster dated September 8, 2023.  
 9 The Roster lists the following accommodations for Person F, which does not include an  
 10 ErgoWriter:

Housing Restrictions	Durable Medical Equipment	Non Formulary Accommodations/ Comments
Ground Floor-Limited Stairs, Lower/Bottom Bunk Only	Canes, Incontinence Supplies, Knee Braces, Mobility Impaired Disability Vest, Other (Include in Comments)	Durable Medical Equipment: Arm Sling, Cervical Pillow, Wedge Pillow

16 16. Although the “Durable Medical Equipment” column lists “Other (Include in  
 17 Comments),” there is no related comments field in the roster, and Ergo Writer is not listed  
 18 in any of the other columns (“Inst.,” “Name,” “CDC #,” “Current Facility-Bed,” “Code,”  
 19 “LD,” “LD Comments,” “SLI,” “Reading Score,” “Primary Communication,” “Alternate  
 20 Communication”). I also reviewed the SOMS DPP Roster dated January 13, 2023, for  
 21 Person F, to see what DME was listed for him before his mother was approved to purchase  
 22 an ErgoWriter for him. The “Durable Medical Equipment” column also lists “Other  
 23 (Include in Comments).”

24 17. Second, on September 19, 2023, I reviewed the electronic healthcare record  
 25 of Person F, which I have access to as class counsel in the *Armstrong* and *Plata* cases. I  
 26 searched for DME receipts by selecting “Documentation” from the Menu on the left of the  
 27 screen. Then, I selected in the “Display” drop-down menu “Only...,” then “Note Type” in  
 28 the next drop-down menu, and then “7536 DME Supply Receipt” in the next drop-down

1 menu. That resulted in a list of 7536 DME Supply Receipts, including six dated between  
2 June 1, 2023, and September 19, 2023. They were dated: June 2, 2023; July 14, 2023;  
3 August 17, 2023; August 24, 2023; August 31, 2023; and September 7, 2023. None  
4 appeared to relate to an ErgoWriter. Instead, they related to a disability vest, knee brace,  
5 and incontinence supplies.

#### 6 **Provision of Non-Medical Assistive Devices at Mule Creek State Prison**

7 18. In May 2022, a team from my office visited Mule Creek State Prison  
8 (“MCSP”) to conduct an *Armstrong* monitoring tour. During the tour, a class member with  
9 an upper extremity disability submitted a CDCR 1824, written with the assistance of  
10 Plaintiffs’ counsel, requesting a “built-up grip holder for gripping utensils, pens,  
11 toothbrush.” The CDCR 1824 was assigned log number 165185401706. In response, the  
12 RAP at MCSP provided the class member with a foam build-up grip holder. A true and  
13 correct copy of the CDCR 1824, RAP response, and related paperwork is attached as  
14 **Exhibit 7**.

15 19. On July 27, 2023, Ms. Amarillas sent a letter to Tamiya Davis, an attorney  
16 with the CDCR Office of Legal Affairs, requesting that MCSP provide a reading guide to  
17 accommodate a class member’s learning disability. A true and correct copy of the letter,  
18 dated July 27, 2023, is attached as **Exhibit 8**.

19 20. In a letter from the MCSP warden, Patrick Covello, dated September 13,  
20 2023, Mr. Covello stated: “At this time, MCSP’s education department does not have  
21 Guided Reading Strips accessible to inmates. To accommodate [the class member], a  
22 replica of a similar Guided Reading Strip device was made by a MCSP staff member. This  
23 is intended to provide [the class member] immediate accommodations. An acquisition  
24 order has been placed ... and upon receipt of the ordered product, [the class member] will  
25 be issued a reading guide to keep on his person for use in education or any other setting  
26 that its use will provide benefit to him.” A true and correct copy of Mr. Covello’s letter,  
27 dated September 13, 2023, is attached as **Exhibit 9**.

28

## Effective Communication of Announcements - Ducats

1  
2 21. On September 19, 2023, I reviewed the “Health Care Definitions” for the  
3 HCDOM, available at [https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-](https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-Definitions.pdf)  
4 [Definitions.pdf](https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-Definitions.pdf). “Ducat” is defined there as “[a] common term for a CDC 129, Inmate  
5 Pass. There are two types of ducats, ‘Priority’ and ‘Non-Priority.’ Priority ducats are  
6 stamped with the word ‘Priority’ and are used for scheduled health care appointments.  
7 Non-Priority ducats are used for unscheduled appointments and/or unescorted movement  
8 from one location to another.”

9 22. On September 19, 2023, I reviewed Section 3.1.5 of the HCDOM, entitled  
10 “Scheduling and Access to Care,” which lists a revision date of “04/2019.” According to  
11 that section, “Each institution shall establish a procedure by which health care ducats are  
12 issued as priority ducats and delivery by custody is verified/documentated.” HCDOM  
13 § 3.1.5(c)(3)(C)(1)(b), [https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-](https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-ch03-art1.5.pdf)  
14 [ch03-art1.5.pdf](https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-ch03-art1.5.pdf).

15 23. CDCR posts its Department Operations Manual (“DOM”) online at  
16 <https://www.cdcr.ca.gov/regulations/cdcr-regulations/dom-toc/>. On September 19, 2023, I  
17 reviewed the version of the DOM that was available at that URL. The title page of the  
18 DOM states: “Updated Through January 1, 2023.” I reviewed Section 52020.8.5, “Master  
19 Pass List,” which appears at page 387 of the DOM and is listed as a component of “Article  
20 16—Inmate Count and Movement.” The DOM (at page 383) states that Article 16 was  
21 “Revised August 12, 2013.” Section 52020.8.5 provides: “Scheduled individual inmate  
22 movement shall be arranged by submitting a request to the Inmate Assignment  
23 Lieutenant’s office one day preceding the effective day by the institutional established  
24 time. A Master Pass List shall be prepared, audited, signed, and published from these  
25 requests by the Inmate Assignment Lieutenant.”

26 24. On September 19, 2023, I also reviewed Section 52020.8.6 of the DOM (at  
27 page 387), “CDC Form 129, Inmate Pass,” which is also listed under “Article 16—Inmate  
28 Count and Movement.” Section 52020.8.6 states: “Staff shall ensure that all inmates

1 listed on the master pass list receive a CDC 129, Inmate Pass. This pass shall be issued to  
2 individual inmates to authorize movement to specified locations at designated times.” The  
3 Section further states: “When unscheduled inmate movement is necessary, staff shall issue  
4 inmates a CDC Form 129 prior to allowing inmates to proceed without staff escort (i.e.,  
5 medical/dental, authorized attorney visit, disciplinary hearing, or to complete Receiving &  
6 Release necessities, etc.).”

7 25. As part of our monitoring duties, Plaintiffs’ counsel in *Plata* conducts visits  
8 to SATF and reviews documents to assess medical care services and, at times, sends letters  
9 to the Receiver in *Plata* identifying areas of concern.

10 26. On March 14 and 15, 2023, Plaintiffs’ counsel in *Plata* visited SATF to  
11 conduct a site visit. Rana Anabtawi, Plaintiffs’ counsel in *Plata*, sent a letter summarizing  
12 the findings of the site visit to the Receiver in *Plata* and CDCR and CCHCS attorneys on  
13 March 24, 2023. Ms. Anabtawi reported, among other things, concerns that the ducating  
14 system at SATF was not functioning in accordance with policy (page 3) and concerns with  
15 the efficacy of the training provided to healthcare staff regarding their role in the  
16 disciplinary process (page 8). A true and correct copy of the letter sent by Ms. Anabtawi  
17 to the Receiver and CDCR and CCHCS attorneys, dated March 24, 2023, is attached  
18 hereto as **Exhibit 10**.

19 27. Attached hereto as **Exhibit 11** is a true and correct copy of a memorandum  
20 entitled, “Referral for Division and Region Level of Review: Health Care Access Unit  
21 Operations Monitoring Audit at Substance Abuse Treatment Facility,” and dated  
22 October 14, 2023. It is signed by Joseph (Jason) Williams, Deputy Director, Field  
23 Operations, Corrections Services, CCHCS, and is addressed to Matthew Atchley,  
24 Associate Director, Division of Adult Institutions, CDCR, and Chris Podratz, Regional  
25 Health Care Executive, Health Care Operations, Region III, CCHCS. The memorandum  
26 attaches another memorandum, entitled, “Findings of the Health Care Access Unit  
27 Operations Monitoring Audit at Substance Abuse Treatment Facility – Round VIIIb,” also  
28 dated October 14, 2023. That memorandum discusses the September 2022 Health Care



1 Access Unit Operations Monitoring Audit at SATF. Both memoranda were sent to  
2 Plaintiffs' counsel in *Plata* on October 14, 2022, by Alyssa Prather, Executive Assistant,  
3 on behalf of Mr. Williams.

4 28. During the September 2022 Health Care Access Unit Operations Monitoring  
5 Audit at SATF, the audit determined that 79.1% of the time, custody staff ensured that  
6 patients appeared for priority ducats no earlier than 60 minutes before their scheduled  
7 ducat time. *See* Ex. 11 at 21 (Question R8b.5.08: "Does custody staff ensure patients  
8 appear for priority ducats no earlier than 60 minutes before the scheduled priority ducat  
9 time?"). In other words, approximately one in five patients (20.9%) arrived to the clinic  
10 more than an hour before their scheduled appointment time. I calculated this number by  
11 taking the compliance percentage (79.1%) for Question R8b.5.08 presented in the table  
12 labeled "Component 5: Health Care Data," and subtracting it from 100%. The audit also  
13 found that 27.2% of the time, custody staff had not ensured that patients completed priority  
14 ducats within an hour after their scheduled ducat time. *See id.* (Question R8b.5.09: "Does  
15 custody staff ensure patients complete priority ducats no later than 60 minutes after the  
16 scheduled priority ducat time?"). I calculated this number by taking the compliance  
17 percentage (72.8%) for Question R8b.5.09 presented in the table labeled "Component 5:  
18 Health Care Data," and subtracting it from 100%. According to the audit, "There were  
19 13,288 appointments where patients appeared for priority ducats more than 60 minutes  
20 before the scheduled priority ducat time, ranging from 1 hour, 1 minute to 11 hours, 39  
21 minutes." *Id.* at 21-22. Also according to the audit, "There were 17,189 patients who  
22 completed priority ducats more than 60 minutes after the scheduled priority time, ranging  
23 from 1 hour, 1 minute to 12 hours, 50 minutes." *Id.* at 22.

#### 24 **Effective Communication of Announcements - Training**

25 29. In response to a request by the Court Expert for "Any training materials used  
26 with SATF staff in the last three years regarding working with deaf or hard of hearing  
27 incarcerated people," Defendants produced a document entitled, "In-Service Training  
28 (IST): Interacting with Inmates with Disabilities." The footer of the document states,



1 “OTPD Approved 03/2021.” The document further states, “On March 11, 2021, an ‘Order  
2 for Additional Remedial Measures’ was filed to require implementation of new remedial  
3 measures. This training is part of remedial measures to prevent further violations of class  
4 members’ rights throughout the Department.” The document discusses deaf and hard-of-  
5 hearing class members’ difficulty hearing announcements and alerts on pages 19 and 20.  
6 A true and correct copy of the training produced by Defendants is attached hereto as  
7 **Exhibit 12.**

8 30. In response to the Court Expert’s same request, Defendants produced a  
9 document entitled, “Basic Correctional Officer Academy (BCOA): Disability Culture.”  
10 The document states, “Cadets must be aware of the subtle differences in communicating  
11 and interacting with disabled inmates.” The document discusses deaf and hard-of-hearing  
12 class members’ difficulty hearing announcements and alerts on pages 8 and 9. A true and  
13 correct copy of the training produced by Defendants is attached hereto as **Exhibit 13.**

14 31. In response to the Court Expert’s same request, Defendants produced records  
15 that staff at SATF were trained regarding the requirement to effectively communicate  
16 announcements to deaf and hard-of-hearing people in 2019 and 2021.

17 32. In response to a request by the Court Expert for “Any training materials and  
18 evidence of who was trained regarding the requirement to communicate announcements to  
19 deaf and hard-of-hearing incarcerated people,” Defendants produced a memorandum dated  
20 March 15, 2022, entitled, “Deaf Culture Training at California Substance Abuse Treatment  
21 Facility and State Prison at Corcoran (CSATF/SP).” The memorandum was signed by  
22 Theresa Cisneros, the then-warden at SATF. The memorandum includes discussion of  
23 effective communication of announcements on page 1. A true and correct copy of the  
24 memorandum, dated March 15, 2022, is attached hereto as **Exhibit 14.** Defendants also  
25 produced a document entitled “Course Enrollments,” for “Deaf Culture Training 2023 –  
26 SATF – Online – OJT – 11063239.” The document appears to list 1,547 staff members as  
27 enrolled in the training.

28 33. I reviewed SATF Operational Procedure (“OP”) 497, the local policy

1 governing sign language interpretation services at SATF, last revised on December 13,  
2 2021. I also reviewed a memorandum announcing the amendment of OP 497, dated  
3 March 14, 2022. According to OP 497, “Captains shall conduct a meeting with ASL  
4 inmates assigned to their facility bi-weekly,” and, “The ADAC shall conduct a meeting  
5 with ASL inmates assigned to CSATF/SP on a monthly basis.” A true and correct copy of  
6 SATF OP 497, dated December 13, 2021, with the memorandum dated March 14, 2022, is  
7 attached hereto as **Exhibit 15**.

### 8 **Improvement Efforts by SATF Healthcare Leadership**

9 34. In the Court Expert’s second report, filed August 24, 2023, the Court Expert  
10 found that a “nurse practitioner developed a system for auditing whether primary care  
11 providers on each yard properly reconciled every new arrival (whether received through  
12 R&R or TTA) within one business day, as required by policy,” and that “[a]ll  
13 reconciliations for new arrivals to SATF have been tracked via this auditing system since  
14 January 2023, and although providers have sometimes continued to fail to reconcile, SATF  
15 healthcare leadership believes the auditing system has caught those human errors and  
16 corrected them.” Dkt. No. 3500 at 7.

17 35. In response to a request by the Court Expert’s office for “Any job description  
18 for NP in charge of auditing reconciliation of new transfers,” Defendants produced a  
19 document entitled, “California Substance Abuse Treatment Facility and State Prison at  
20 Corcoran Duty Statement,” which lists the specific responsibilities of this nurse  
21 practitioner. A true and correct copy of the duty statement is attached hereto as  
22 **Exhibit 16**.

23 36. On September 19, 2023, I reviewed Section 3.1.5 of the HCDOM, entitled  
24 “Scheduling and Access to Care.” According to Section 3.1.5, “Patients who submit  
25 CDCR 7362s that describe symptoms shall be seen by the Primary Care RN within one  
26 business day.” HCDOM § 3.1.5(c)(2)(B)(3)(a)(3), [https://cchcs.ca.gov/wp-](https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-ch03-art1.5.pdf)  
27 [content/uploads/sites/60/HC/HCDOM-ch03-art1.5.pdf](https://cchcs.ca.gov/wp-content/uploads/sites/60/HC/HCDOM-ch03-art1.5.pdf). Section 3.1.5 also provides: “The  
28 Primary Care RN shall separately address CDCR 7362s that do not include symptoms,

1 such as requests for eyeglasses or medication renewals, routing them to appropriate staff.”  
2 *Id.* § 3.1.5(c)(2)(B)(3)(a)(5).

### 3 **Plaintiffs’ Counsel’s Access to Information**

4 37. Plaintiffs’ counsel was not invited to participate in the regular biweekly  
5 meetings between the Court Expert and the SATF warden, healthcare CEO, Receiver, and  
6 members of his staff. *See* Dkt. No. 3500 at 5 (noting that, at those meetings, “custody and  
7 healthcare leadership discussed their efforts at the headquarters and institution level to  
8 address the problems we identified in our first report”). Plaintiffs’ counsel did attend a  
9 demonstration by the SATF CEO of his 7362 tracking tool and 1824 tracking tool on  
10 August 15, 2023. I understand that the Court Expert and/or his representative attended  
11 SATF RAP meetings on April 12, 2023; May 3, 2023; and August 2, 2023. Plaintiffs’  
12 counsel was not permitted to observe two of these three meetings, on May 3, 2023, and  
13 August 2, 2023. The third meeting, on April 12, 2023, was a RAP meeting that Plaintiffs’  
14 counsel observed during the course of a regular monitoring tour, which a representative  
15 from the Court Expert’s office also attended.

16 38. In his second report, the Court Expert states that “[t]he information discussed  
17 in [the biweekly] meetings was summarized in a document that tracked the actions that  
18 SATF and headquarters took in response to our first report, and this document was shared  
19 with Plaintiffs.” Dkt. No. 3500 at 5. This appears to be a reference to a document entitled,  
20 “SATF Tracking Tool 6-27-23,” which Defendants produced to Plaintiffs’ counsel on  
21 July 7, 2023. The document lists findings and recommendations from the Court Expert’s  
22 first report. *See* Dkt. No. 3446. For each finding or recommendation, the document then  
23 lists, at both the institution and headquarters levels, who action was required by, the  
24 proposed action plan, the implementation status, and “Comments/Proof of Practice.” The  
25 document contains insufficient information from which Plaintiffs’ counsel would be able  
26 to determine whether sufficient action was taken and what the results of that action were,  
27 particularly for those recommendations that primarily implicate CDCR. For example,  
28 page 17 of the document has a row for Item #20, “SATF leadership must devise a system

1 for auditing staff communication of announcements to deaf people at SATF.” This is  
 2 marked as completed, but it is not clear what, if anything, was in fact done. A true and  
 3 correct copy of the “SATF Tracking Tool,” which Defendants produced on July 7, 2023, is  
 4 attached as **Exhibit 17**.

### 5 **Role of Healthcare Staff in the CDCR Disciplinary Process**

6 39. In January 2023, Plaintiffs’ counsel in *Plata* requested “all RVRs issued  
 7 and/or initiated by any member of the healthcare staff, including healthcare access unit  
 8 custody staff, since June 2022 to present, even if later voided, withdrawn, or dismissed” at  
 9 SATF. CDCR sent a memorandum response dated April 27, 2023, which stated:

10 Nearly 3,600 RVRs were issued by staff at SATF between June 1, 2022 and  
 11 January 31, 2023. CDCR’s computer system currently does not sort RVRs  
 12 by the classification of the staff member “issuing or initiating” the RVR, and  
 13 it is not routine practice to categorize RVRs this way. Accordingly, CDCR  
 14 staff across various divisions worked together to narrow down the number of  
 15 potentially responsive RVRs, and then manually reviewed those RVRs to  
 16 identify those responsive to this request. CDCR identified the attached  
 RVRs as responsive to Plaintiffs’ request based on its manual, individual  
 review of nearly one quarter of the RVRs issued at SATF in the requested  
 time period. This new process diverted staff from their regular duties and  
 took weeks to complete. At this time, CDCR does not plan to continue  
 reviewing the remaining RVRs issued during that time period in connection  
 with this request.

17 A true and correct copy of the CDCR memorandum, dated April 27, 2023, is attached as  
 18 **Exhibit 18**.

19 40. On May 8, 2023, Sara Norman, Plaintiffs’ counsel in *Plata* and *Armstrong*,  
 20 sent an email to the *Plata* Receiver, *Armstrong* Court Expert, and attorneys for CDCR and  
 21 CCHCS setting forth Plaintiffs’ counsel’s position regarding RVRs initiated by healthcare  
 22 staff and requesting additional information. On August 7, 2023, the *Plata* Team at the  
 23 CDCR Office of Legal Affairs sent a response by email. The *Plata* Team stated that  
 24 CDCR and CCHCS were developing a policy to address several of Plaintiffs’ counsel’s  
 25 concerns, including related to SOMS access, monitoring, and alternatives to the RVR  
 26 process. As of September 20, 2023, Plaintiffs’ counsel has not received a copy of the  
 27 policy referenced in the *Plata* Team’s email. A true and correct copy of Ms. Norman’s  
 28 email, dated May 8, 2023, and the response from the *Plata* Team at the CDCR Office of

1 Legal Affairs, dated August 7, 2023, is attached as **Exhibit 19**.

2 **Plaintiffs’ Continued Identification of Issues at SATF**

3 41. On February 24, 2023, the Court ordered the Court Expert to “work with the  
4 parties to discuss modifications to Defendants’ policies and procedures to ensure that  
5 Defendants respond substantively to letters by Plaintiffs’ counsel in a reasonably timely  
6 manner. In the meantime, Defendants shall, not later than thirty days of receiving an  
7 advocacy letter from Plaintiffs’ counsel, acknowledge their receipt of the letter and provide  
8 at least a suggested time frame for when they expect to be able to respond substantively to  
9 the letter.” Dkt. No. 3467 at 4.

10 42. In response to the Court’s order, my colleagues and I have met twice with  
11 Defendants and the Court Expert regarding Defendants’ new process for responding to  
12 Plaintiffs’ advocacy letters, on May 24 and August 8, 2023. On May 24, 2023, Defendants  
13 stated that they planned to respond to all pending advocacy letters shortly. On July 11,  
14 2023, an attorney with the CDCR Office of Legal Affairs informed me that Defendants did  
15 not intend to respond to any advocacy letters sent before April 2023. In the interest of  
16 balancing Defendants’ existing resources with the need to address longstanding issues and  
17 avoid repetitive monitoring and advocacy, Plaintiffs’ counsel reviewed 115 letters sent  
18 before April 2023 that had gone unanswered by Defendants. I removed 60 of these letters  
19 from the list of outstanding requests—over half of the advocacy letters that Defendants had  
20 not answered—and proposed that Defendants instead focus their resources on responding  
21 to the remaining 55. On August 4, 2023, I sent the list of 55 advocacy letters to counsel  
22 for Defendants. Nineteen of the letters on the list relate to SATF, and cover a range of  
23 issues, including failure to protect people with disabilities from harm, accommodations for  
24 blind and low-vision class members, accommodations for deaf and hard-of-hearing class  
25 members, accommodations for people with mobility disabilities, and false and  
26 discriminatory RVRs. Defendants agreed to provide responses to those nineteen letters.  
27 According to Plaintiffs’ records, Defendants have not responded to any of those nineteen  
28 letters as of September 20, 2023. A copy of the list of 55 advocacy letters sent by

[4356643.2]

1 Plaintiffs’ counsel before April 2023 that Plaintiffs’ counsel requested a response to is  
2 attached as **Exhibit 20**.

3 43. This year, my colleagues and I have continued to report problems with the  
4 provision of reasonable accommodations at SATF, both in writing and in meetings with  
5 institution and headquarters staff. I provide a few examples below.

6 44. In January 2023, a team from my office and I visited SATF for an *Armstrong*  
7 monitoring tour. Based on reports by deaf people at SATF who use sign language to  
8 communicate, my colleague Skye Lovett and I visited several medical clinics to test the  
9 equipment used for Video Remote Interpreting (“VRI”) for medical encounters with deaf  
10 patients who communicate through sign language. On Facility E, I observed that medical  
11 staff were not able to log in to use VRI and got “Access Denied” messages. On Facility F,  
12 I observed that medical staff could not readily find the log-in information for VRI and  
13 then, once they located that information, could not get the video to work.

14 45. On January 26, 2023, Skye Lovett and I presented our preliminary findings  
15 at an exit meeting conducted on Microsoft Teams and attended by the Warden, Chief  
16 Executive Officer, ADA Coordinator, and other institution and headquarters staff. During  
17 the exit meeting, Skye Lovett reported that medical staff appeared unable to operate VRI  
18 equipment. On April 24, 2023, I sent a letter to CDCR and CCHCS noting continued  
19 problems with effective communication during healthcare encounters. The letter was  
20 addressed to Dr. Joe Bick, Director of CCHCS Health Care Services, and Tamiya Davis,  
21 an attorney with the CDCR Office of Legal Affairs. Attached hereto as **Exhibit 21** is a  
22 true and correct copy of my letter, dated April 24, 2023, regarding provision of sign  
23 language interpretation during healthcare encounters at SATF.

24 46. Since I sent the advocacy letter on April 24, 2023, I have not received a  
25 suggested time frame for when CDCR or CCHCS expect to be able to respond  
26 substantively to the letter, and I have not received a substantive response to the letter.

27 47. During the January 26, 2023 exit meeting, Skye Lovett also raised concerns  
28 with the use of Rules Violation Reports (“RVRs”) against people with disabilities at



1 SATF. They reported that there appeared to be no system at SATF to evaluate whether the  
2 behavior punished by an RVR was related to a disability, and that in some cases, people  
3 with disabilities at SATF had been disciplined instead of being accommodated.

4 48. In April 2023, a team from my office visited SATF for a Plaintiffs’  
5 monitoring tour. I interviewed incarcerated people remotely on April 19, 2023, and  
6 remotely attended part of the tour on April 26, 2023. I also interviewed executive staff and  
7 managers on April 28, 2023. On May 3, 2023, my colleagues Jacob Hutt, Skye Lovett,  
8 and I presented our preliminary findings at an exit meeting conducted on Microsoft Teams  
9 and attended by the Warden, Chief Executive Officer, ADA Coordinator, and other  
10 institution and headquarters staff. During the exit meeting, we raised concerns with,  
11 among other things, the use of RVRs against people with disabilities at SATF and  
12 problems with accommodations during off-site transportation.

13 49. On June 23, 2023, I sent Defendants a letter regarding the operation of the  
14 disciplinary process at SATF and the effect it has on people with disabilities. Since I sent  
15 the letter, Defendants have not provided me with a suggested time frame for when  
16 Defendants expect to be able to respond substantively to the letter, and I have not received  
17 a substantive response to the letter. Attached hereto as **Exhibit 22** is a true and correct  
18 copy of my letter dated June 23, 2023.

19 50. On September 8, 2023, Ms. Amarillas sent a letter to Ms. Davis on behalf of  
20 a class member at SATF regarding access to disability accommodations. Attached hereto  
21 as **Exhibit 23** is a true and correct copy of the letter sent by Ms. Amarillas on September 8,  
22 2023.

### 23 Other Jurisdictions

24 51. On September 19, 2023, I visited Mass.gov, an official website of the Com-  
25 monwealth of Massachusetts. I downloaded a copy of the Massachusetts Department of  
26 Correction policy on the “Department of Correction Public Policies” webpage entitled,  
27 “103 DOC 408 – Reasonable Accommodations for Inmates,” which lists an effective date  
28 of May 12, 2023, and is available at <https://www.mass.gov/doc/doc-408-reasonable->



1 [accommodations-for-inmates/download](#). A true and correct copy of the policy is attached  
2 hereto as **Exhibit 24**.

3 a. Section 408.11(A)(1)(m) of the policy states: “Auxiliary Aids and  
4 Services for Deaf, Hard-of-Hearing, and Late Deafened inmates may include ... Vibrating  
5 watch.” Section 408.11(A)(15) of the policy states: “Visual and/or tactile notification  
6 devices: Vibrating watches that can be set to vibrate at specific times (major counts, for  
7 example) shall be available to approved Deaf and Hard-of-Hearing inmates.”

8 b. Section 408.11(B)(1)(j) of the policy states: “Assistive devices for  
9 Blind and visually impaired inmates may include ... Talking/vibrating watch.”

10 c. Section 408.07(A)(16) of the policy states: “The Department shall not  
11 assess the cost of approved accommodations to the Inmate with a Disability in accordance  
12 with 28 C.F.R. 35.130(f).”

13 52. On September 19, 2023, I visited [floridajusticeinstitute.org](http://floridajusticeinstitute.org), an official  
14 website for the nonprofit public interest law firm Florida Justice Institute. I selected  
15 “Cases” from the “Our Work” drop-down menu. I then selected “Disability Rights Florida  
16 v. Florida Department of Corrections (I).” I then clicked on “Settlement Agreement.” A  
17 true and correct copy of that document, titled “Settlement Agreement,” captioned  
18 *Disability Rights Florida, Inc. v. Julie Jones*, Case No. 4:16-cv-47-RH-CAS (N.D. Fla.),  
19 dated July 7, 2017, and available at [https://www.floridajusticeinstitute.org/wp-](https://www.floridajusticeinstitute.org/wp-content/uploads/2017/08/Settlement-Agreement-no-exhibits-searchable-07148878xB3B17.pdf)  
20 [content/uploads/2017/08/Settlement-Agreement-no-exhibits-searchable-](https://www.floridajusticeinstitute.org/wp-content/uploads/2017/08/Settlement-Agreement-no-exhibits-searchable-07148878xB3B17.pdf)  
21 [07148878xB3B17.pdf](https://www.floridajusticeinstitute.org/wp-content/uploads/2017/08/Settlement-Agreement-no-exhibits-searchable-07148878xB3B17.pdf), is attached hereto as **Exhibit 25**.

22 a. Paragraph 38 of the settlement agreement states: “**Vibrating**  
23 **Watches**. FDC will utilize reasonable efforts to inform or remind the D/HOH [Deaf/Hard  
24 of Hearing] inmate of necessary events or appointment ‘call outs.’ If notwithstanding that,  
25 the D/HOH inmate is unable to respond to necessary events or appointment ‘call outs’ due  
26 to the inmate’s hearing, a vibrating watch will be made available as an accommodation. In  
27 addition, all profoundly deaf inmates will receive a vibrating watch.”

28 b. Paragraph 43 of the settlement agreement states: “**Talking Watches**.

1 FDC will utilize reasonable efforts to remind the IVD [Inmates with Vision Disabilities]  
 2 inmates of necessary events or appointment ‘call outs.’ If, notwithstanding the reminders  
 3 provided by FDC, and/or changes to the Call Out Lists as discussed below, the IVD inmate  
 4 is unable to respond to necessary events or appointment ‘call outs’ due to his vision, a  
 5 talking watch will be made available as an accommodation. In addition, all totally blind  
 6 inmates will receive a talking watch.”

7 c. Paragraph 19 of the settlement agreement states: “**No Co-Pay or**  
 8 **Charge for Accommodations.** ... No charges shall be assessed to a Covered Inmate for  
 9 accommodations, aids, or services, including batteries to use the accommodation device,  
 10 that are or have been previously approved by FDC.” Paragraph 5 defines “Covered  
 11 Inmates” as “any Deaf/Hard of Hearing Inmate, Blind/Visually Impaired Inmate, or Inmate  
 12 with a Mobility Disability.”

13 53. I also selected “Disability Rights Florida v. Florida Department of  
 14 Corrections (II)” from the “Our Work” drop-down menu. The webpage states: “Disability  
 15 Rights Florida (DRF), Florida’s federally funded Protection and Advocacy organization  
 16 for individuals with disabilities, has brought suit against the Florida Department of  
 17 Corrections over its systemic failure to comply with a settlement agreement signed by both  
 18 parties in July 2017. DRF is represented by the Florida Justice Institute and Morgan &  
 19 Morgan, P.A.” The webpage further states: “In November 2021, another historic  
 20 settlement agreement was reached on behalf of incarcerated people with disabilities that  
 21 preserves the many of the requirement of the original settlement and includes more  
 22 protections. FJI is currently monitoring the implementation of the settlement.” I clicked on  
 23 “Settlement Agreement.” A true and correct copy of that document, titled “Settlement  
 24 Agreement,” captioned *Disability Rights Florida, Inc. v. Florida Department of*  
 25 *Corrections*, Case No. 2019-CA-2825 (Second Judicial Circuit in and for Leon, Florida),  
 26 dated November 8, 2021, and available at [https://www.floridajusticeinstitute.org/wp-](https://www.floridajusticeinstitute.org/wp-content/uploads/2022/07/settlement-agreement.pdf)  
 27 [content/uploads/2022/07/settlement-agreement.pdf](https://www.floridajusticeinstitute.org/wp-content/uploads/2022/07/settlement-agreement.pdf), is attached hereto as **Exhibit 26**.

28 a. Paragraph 60 of the settlement agreement states: “**Other**

1 **Accommodations and Medical Devices.** FDC will continue to provide D/HOH inmates  
2 other approved accommodations and approved medical devices including ... vibrating  
3 watches ....”

4 b. Paragraph 64 of the settlement agreement states: “**Other Accom-**  
5 **modations and Medical Devices.** FDC will continue to provide IVDs other approved  
6 accommodations and approved medical devices including talking watches ....”

7 c. Paragraph 47 of the settlement agreement states: “**No Co-Pay or**  
8 **Charge for Approved Accommodations or Approved Medical Devices.** ... No charges  
9 will be assessed to an inmate for approved accommodations or approved medical devices,  
10 including batteries necessary to use an approved accommodation or approved medical  
11 device.”

12 54. On September 19, 2023, I visited the Northern District of Illinois – CM/ECF  
13 Official Court Electronic Filing System website. I downloaded a copy of the Stipulation of  
14 Settlement in *Ralph Holmes, et al. v. John Baldwin, et al.*, Case No. 1:11-cv-02961 (N.D.  
15 Ill.), Dkt. No. 436-2, filed on April 23, 2018. A true and correct copy of the document is  
16 attached hereto as **Exhibit 27**. According to the docket, the Court approved the Settlement  
17 on July 26, 2019.

18 a. Paragraph 15 of the stipulation states: ““Auxiliary Aids and Services’  
19 that may be provided include ... vibrating alarm clocks and watches; [and] tactile alarm  
20 clocks and watches ....”

21 b. Paragraph 60 of the stipulation states: “Subject to Paragraph 65  
22 below, promptly following completion of an inmate’s Auxiliary Aid and Services  
23 Assessment, IDOC will provide the inmate, at no cost to the inmate, the Auxiliary Aids  
24 and Services provided for in the inmate’s Communication Plan.”

### 25 **CART**

26 55. In the Court Expert’s first report, filed December 20, 2022, he describes the  
27 experiences of a deaf class member he refers to as “Person E.” Dkt. No. 3446 at 38-41.  
28 Plaintiffs’ counsel first requested CART on behalf of Person E in July 2019. *See* Dkt. No.

1 3459-1 ¶ 14, Ex. 16.

2 56. On February 24, 2023, this Court ordered that “Defendants shall make  
3 CART or an alternative reasonable accommodation available at SATF for [due process  
4 events, programming, and education] as soon as possible and shall keep the Court Expert  
5 informed on their progress.” Dkt. No. 3467 at 3. Since the time of the Court’s order, my  
6 colleagues and I have met a number times with representatives from Defendants and the  
7 Court Expert’s office to discuss implementation of CART, including on March 10, 2023;  
8 April 21, 2023; June 5, 2023; June 13, 2023; June 30, 2023; and August 3, 2023. My  
9 colleagues and I also have corresponded with Defendants and the Court Expert regarding  
10 implementation of CART between these meetings.

11 57. On July 24, 2023, Defendants issued a memorandum entitled, “Revised  
12 Implementation of Communication Access Real-Time Translation Services for Deaf and  
13 Hard of Hearing Incarcerated Persons.” Attached hereto as **Exhibit 28** is a true and correct  
14 copy of Defendants’ memorandum, dated July 24, 2023, without attachments.

15 58. On August 10, 2023, my colleagues and I remotely observed via Microsoft  
16 Teams a town hall meeting on Facility G at SATF. I observed only a few incarcerated  
17 people in attendance, including Person E. At the beginning of the town hall, the SATF  
18 ADA Coordinator said that CART would not be used for the town hall because it had not  
19 been authorized. The first few minutes of the town hall did not appear to be effectively  
20 communicated to Person E at all. Several minutes into the meeting, I observed that  
21 Person E was handed a device, which appeared to have autocaptioning software.

22 59. The town hall consisted of an oral presentation by the SATF ADA  
23 Coordinator discussing the new CDCR policy regarding CART, a YouTube video  
24 discussing CART in a non-correctional setting, and a question-and-answer period. The  
25 participants had a number of questions during the question-and-answer portion, including  
26 how CART appointments would be scheduled, where they could find a CDCR 1824,  
27 whether CART was available just “when we’re in trouble,” and whether CART would be  
28 available for education, self-help programs, and to communicate with family members.

1 The participants also raised concerns with effective communication of announcements in  
2 the housing units, asked why electronic scrollboards located in the housing units were not  
3 used, reported difficulty hearing loved ones on the phones, and reported that programs  
4 were being cancelled because sign language interpretation via VRI was not working.

5 60. In response to a question from a representative of the Court Expert at the end  
6 of the town hall, the SATF ADA Coordinator reported that Person E was following the  
7 town hall through WebEx autocaptioning. The ADA Coordinator then asked Person E  
8 whether he was following along and whether he had any questions. Person E did not  
9 respond and continued to stare at the screen of the device he had been given. Then, a class  
10 member I recognized as a deaf person who uses sign language to communicate attempted  
11 to get Person E's attention to indicate that the ADA Coordinator was talking to Person E.  
12 (There was at least one staff sign language interpreter present at the town hall.)

13 61. Person E seemed largely disengaged during the town hall, and I was  
14 concerned that the autocaptioning was not adequate to accurately relay the information  
15 orally conveyed during the town hall to Person E. As a result, Plaintiffs' counsel requested  
16 a copy of the transcript of the autocaptioning provided to Person E during the town hall.  
17 On August 31, 2023, in response to Plaintiffs' counsel's request, Defendants produced a  
18 copy of the transcript. The heading of the document states in part, "1:36 pm - 2:08 pm  
19 Thursday, August 10, 2023." Attached hereto as **Exhibit 29** is a true and correct copy of  
20 the transcript produced by Defendants on August 31, 2023. The transcript does not clearly  
21 communicate what was said during the town hall. It is incomprehensible, with nonsensical  
22 phrasing and punctuation, and does not identify who was speaking (that is, it does not  
23 indicate when an incarcerated person was asking a question as opposed to when the ADA  
24 Coordinator was answering).

25 62. At the end of the town hall meeting, I asked the SATF ADA Coordinator  
26 how the town hall had been advertised. The SATF ADA Coordinator said that the IAC  
27 executive body and people with hearing disabilities who require written notes had been  
28 invited. He reported that this process was used on all facilities at SATF. At around the

1 time of the town hall meeting, Facility G at SATF housed 56 *Armstrong* class members  
2 designated DNH who did not have “Written Notes” documented as a method of effective  
3 communication. To determine this number, I used data from a SOMS DPP Roster, dated  
4 August 11, 2023. At my direction, an investigator in my office filtered the “Inst.” column  
5 of the spreadsheet to “SATF,” filtered the “Current Facility-Bed” column to “Begins With  
6 G,” filtered the “Code” column to “DNH,” and tallied the number of class members who  
7 appeared on the spreadsheet who did not have “Written Notes” listed in either the “Primary  
8 Communication Method” or “Alternate Communication Method” columns.

9       63. My colleagues and I had serious concerns regarding the execution of the  
10 August 10, 2023, town hall meeting on Facility G at SATF. On August 11, 2023, my  
11 colleague Claudia Ceseña, who observed the town hall with me, sent an email to  
12 Defendants raising these concerns and requesting additional information, including why  
13 SATF could not get CART for the town hall, why the town hall was restricted in violation  
14 of policy to a subset of class members who might benefit from CART, and how SATF  
15 planned to respond to the effective communication concerns raised by attendees during the  
16 question-and-answer period of the town hall. On August 11, 2023, an attorney with the  
17 CDCR Office of Legal Affairs responded to Ms. Ceseña as follows: “Thank you for your  
18 feedback. I have relayed it to program and will work to get you answers to your  
19 questions.”

20       64. Over a month later, on September 12, 2023, my colleague Skye Lovett wrote  
21 again to Defendants to follow-up on the requests for information made in Ms. Ceseña’s  
22 email. As of September 20, 2023, Plaintiffs’ counsel has not yet received a response to  
23 these requests. Attached hereto as **Exhibit 30** is a true and correct copy of Ms. Ceseña’s  
24 email, sent August 11, 2023; Defendants’ response, received August 11, 2023; and Skye  
25 Lovett’s subsequent email, sent September 12, 2023.

26       65. On August 10, 2023, my colleague Marissa Hatton sent an email to  
27 Defendants asking, “Do you have future town halls planned, and if so, is it possible to get a  
28 bit more advanced notice so we can coordinate an in-person observation?” On August 10,



1 2023, an attorney with the CDCR Office of Legal Affairs responded, “I don’t think there  
2 are more town halls planned at SATF for phase I rollout. However, as phase I is hopefully  
3 to happen at the other 10 institutions shortly thereafter, I expect there will be additional  
4 town halls at many institutions and we can keep you apprised so that we can coordinate a  
5 visit.” Attached hereto as **Exhibit 31** is Ms. Hatton’s email and Defendants’ response,  
6 both dated August 10, 2023. In their email to Defendants dated September 12, 2023, Skye  
7 Lovett again asked: “In addition, on August 10, you told us that you would keep us  
8 updated on the town halls for the remaining ten institutions so that we could coordinate a  
9 visit. Do you have any updates on that?” Ex. 30 at 2. As of September 20, 2023,  
10 Plaintiffs’ counsel has not received a response.

11 66. Defendants’ response, filed September 7, 2023, states that “on August 24,  
12 2023, CDCR internally distributed a recorded video presentation showing how CART  
13 works. This video is a practical demonstration of CART working at the institutions,  
14 directed at training CDCR staff, and educating inmates who will use CART.” Dkt. No.  
15 3504 at 12 (internal citations omitted).

16 67. On September 7, 2023, the day their response was filed, Defendants  
17 produced to Plaintiffs’ counsel an MP4 file entitled, “Demo CART Services.” The audio  
18 in the file is an individual narrating information about how staff should schedule CART  
19 services (by sending an email), and how to administer CART services (for example, “if  
20 there are issues during the transcription, such as the transcriber is incorrectly transcribing  
21 an acronym, staff should clearly state what needs to be corrected moving forward in the  
22 transcription”). The video portion of the file appears to be a transcription of the audio  
23 narration, with several typos that the narrator does not appear to comment on or correct,  
24 such as “Passenger case committee” (for “classification committee”), “RPR hearings” (for  
25 “RVR hearings”), and “you will cc camel” (for “you will cc CAMU”).

26 68. The video is 7 minutes and 50 seconds long, and is directed at staff, not  
27 people with disabilities. The file does not convey information regarding how an incarcer-  
28 ated person may request CART or whether or how an incarcerated person may request a



1 transcript from an encounter during which CART was used. In fact, the video improperly  
2 suggests that CART is available only for people designated DPH, and does not explain that  
3 people designated DNH may benefit from and request CART. The transcription provided  
4 does not effectively communicate CART to people who cannot hear. Attached as  
5 **Exhibit 32a** is a true and correct copy of screenshots I took of the transcription of the  
6 video training. Attached as **Exhibit 32b** is a true and correct copy of the MP4 file entitled,  
7 “Demo CART Services,” which Defendants produced to Plaintiffs’ counsel on  
8 September 7, 2023.

9         69. At the meetings between the parties mentioned above regarding CART  
10 implementation (see paragraph 56) and in related correspondence, my colleagues and I  
11 sometimes had to repeat information and positions multiple times before basic issues were  
12 addressed. For example, Defendants’ July 24, 2023, memorandum entitled, “Revised  
13 Implementation of Communication Access Real-Time Translation Services for Deaf and  
14 Hard of Hearing Incarcerated Persons,” refers to “Attachment A,” which the memorandum  
15 states “includes step-by-step instructions on scheduling and accessing CART” and  
16 “includes instructions on how to receive the transcript” from an encounter. Ex. 28 at 2-3.

17         70. My colleagues and I reviewed and provided comments on Defendants’ draft  
18 “Attachment A.” On July 7, 2023, I sent an email to Defendants regarding their draft  
19 policy, and stated, among other things: “[Attachment A] says that ‘incarcerated person[s]  
20 who are defined as DPV, DPH or DPS can request CART Services by submitting a CDCR  
21 1824.’ That is inconsistent with the memorandum; CART will not help people who are  
22 DPV or DPS unless they also have a hearing disability (DNH or DPH).” I did not receive  
23 a response to this concern. I was particularly concerned by the omission of the DNH code,  
24 which refers to people with hearing disabilities who use hearing aids. (DPV refers to  
25 people with certain vision disabilities, and DPS refers to people with certain speech  
26 disabilities.)

27         71. On August 2, 2023, Defendants produced the “revised CART memorandum  
28 and attachment A that was shared with the field last week.” After reviewing the

1 attachment produced by Defendants, I responded that same day as follows:

2 [W]ould you please confirm that the Attachment A you sent this morning is  
3 the correct version?

4 As we noted in our email and comments sent July 7 (attached), the first  
5 section, “Access,” incorrectly states policy. It says that “incarcerated  
6 person[s] who are defined as DPV, DPH or DPS can request CART Services  
7 by submitting a CDCR 1824.” That is inconsistent with the policy  
8 memorandum, which provides that “IPs with verified hearing disabilities  
(DNH or DPH) shall be able to request CART services through the  
1824/Reasonable Accommodation Process.” CART will not help someone  
9 who is designated DPV or DPS – those codes refer to vision and speech  
10 disabilities, respectively – unless they also have a hearing disability. Did  
11 Defendants review and incorporate Plaintiffs’ previous comments?

12 72. On August 2, 2023, Defendants responded that they “are aware and provided  
13 supplemental instruction to the field the following day, July 25.” Defendants provided the  
14 “relevant part of that communication,” which stated in part: “please be sure to omit the  
15 DPV code from your local LOP.” On August 2, 2023, I again responded to Defendants  
16 and stated: “That does not fix the problem, unfortunately. DNH needs to be added to the  
17 list. Were institutions instructed to add that code? And why was DPS retained?” On  
18 August 2, 2023, Defendants responded that a “revised Attachment A ... was shared with  
19 the field today,” which corrected the language in Attachment A to refer to people who are  
20 “DPH or DNH,” as I had originally requested on July 7, 2023. Attached hereto as  
21 **Exhibit 33** are my email to Defendants, dated July 7, 2023, and our subsequent  
22 correspondence related to this issue, dated August 2, 2023.

23 73. Based on the meetings between the parties described above, I was concerned  
24 that Defendants did not have a clear implementation plan for the roll-out of CART in  
25 education and programming at SATF, as required by the Court’s order, and at other  
26 institutions. As a result, at a meeting between the parties on August 3, 2023, I encouraged  
27 Defendants to develop a project schedule that included concrete steps to help structure  
28 implementation, allow the parties to evaluate Defendants’ progress, and help Defendants to  
29 identify and explain any barriers or unanticipated causes for delay.

30 74. On August 18, 2023, Defendants provided via email “updates for CART  
31 rollout at SATF, as well as the other 10 institutions,” which listed “Phase 1 – Due Process

1 at all 11 sites,” “Phase 2a – Other PSAs at SATF,” and “Phase 2b – Expand PSA CART  
2 coverage to remaining 10 sites.” Defendants’ updates did not include timelines or a  
3 designated project manager for either “Phase 2a” or “Phase 2b.” On September 12, 2023,  
4 my colleague Marissa Hatton requested additional information, including “which items  
5 have now been completed,” whether Defendants had “an estimated timeline for rolling  
6 CART out to PSAs at SATF,” and whether Defendants had “begun drafting the relevant  
7 policy memorandum.” Ms. Hatton also wrote:

8 We also would like additional information about the first bullet in Phase 2a –  
9 “[r]equires decision on exactly what PSAs are included.” Who is making  
10 this determination, and are there PSAs that Defendants are considering  
excluding from CART? What is Defendants’ basis for potentially excluding  
certain PSAs from CART services as an accommodation under the ADA?

11 A true and correct copy of Defendants’ email, sent August 18, 2023, and Plaintiffs’  
12 counsel’s response, sent September 12, 2023, is attached hereto as **Exhibit 34**. As of  
13 September 20, 2023, Plaintiffs’ counsel has not received a response from Defendants to  
14 Ms. Hatton’s email of September 12, 2023.

15 I declare under penalty of perjury under the laws of the United States of America  
16 that the foregoing is true and correct, and that this declaration is executed at Berkeley,  
17 California, this 21st day of September, 2023.

18  
19 /s/Rita K. Lomio  
20 Rita K. Lomio

**INDEX OF EXHIBITS TO DECLARATION OF RITA K. LOMIO IN SUPPORT  
OF PLAINTIFFS' RESPONSE TO COURT EXPERT'S SECOND REPORT  
REGARDING TREATMENT OF PEOPLE WITH DISABILITIES AT SATF**

<b>Exhibit</b>	<b>Description</b>	
1	Discontinuation of Payment for Durable Medical Equipment Memorandum (February 14, 2018)	
2	CDCR 1824 Log No. SATF-D-23-00802, RAP response, and related paperwork (May 16, 2023)	REDACTED & UNDER SEAL
3	MaxiAids product information page for "Letter Writing Guide – Regular Black Plastic"	
4	Letter from Ramon Ruiz, CDCR Office of Legal Affairs, to Tania Amarillas, Prison Law Office, regarding ErgoWriter for Person F (May 1, 2023)	REDACTED & UNDER SEAL
5	Emails between Tania Amarillas, Prison Law Office, and Ramon Ruiz, CDCR Office of Legal Affairs, regarding ErgoWriter for Person F (May 3 and July 5, 2023)	REDACTED & UNDER SEAL
6	Response to CDCR 602 Log No. 409934 (June 24, 2023)	REDACTED & UNDER SEAL
7	CDCR 1824 Log No. 165185401706, RAP response, and related paperwork (June 2, 2022)	REDACTED & UNDER SEAL
8	Letter from Tania Amarillas, Prison Law Office, to Tamiya Davis, CDCR Office of Legal Affairs, regarding reading guide for class member at MCSP (July 27, 2023)	REDACTED & UNDER SEAL
9	Letter from Patrick Covello, Mule Creek State Prison, to Tania Amarillas, Prison Law Office, regarding reading guide for class member at MCSP (September 13, 2023)	REDACTED & UNDER SEAL

Exhibit	Description	
10	Letter from Rana Anabtawi, Prison Law Office, to Clark Kelson, California Correctional Health Care Services, regarding medical services at SATF (March 24, 2023)	REDACTED & UNDER SEAL
11	Referral for Division and Region Level of Review: Health Care Access Unit Operations Monitoring Audit at Substance Abuse Treatment Facility and Findings of the Health Care Access Unit Operations Monitoring Audit at Substance Abuse Treatment Facility – Round VIIIb Memoranda (October 14, 2022)	
12	In-Service Training (IST): Interacting with Inmates with Disabilities	REDACTED & UNDER SEAL
13	Basic Correctional Officer Academy (BCOA): Disability Culture	REDACTED & UNDER SEAL
14	Deaf Culture Training at California Substance Abuse Treatment Facility and State Prison at Corcoran (CSATF/SP) Memorandum (March 15, 2022)	
15	SATF OP 497, Sign Language Interpretation Services	
16	SATF Nurse Practitioner Duty Statement	REDACTED & UNDER SEAL
17	SATF Tracking Tool 6-27-23	REDACTED & UNDER SEAL
18	Prison Law Office Document Production Request – Substance Abuse Treatment Facility (SATF) Tour Memorandum (April 27, 2023)	
19	Emails between Sara Norman, Prison Law Office, and CDCR Office of Legal Affairs, regarding <i>Plata</i> and <i>Armstrong</i> plaintiffs’ position on RVRs by medical staff (May 8 and August 7, 2023)	

Exhibit	Description	
20	List of 55 advocacy letters sent by Plaintiffs' counsel before April 2023 for which Plaintiffs' counsel requested a response (August 4, 2023)	REDACTED & UNDER SEAL
21	Letter from Sophie Hart, Rita Lomio, and Skye Lovett, Prison Law Office, to Dr. Joe Bick, California Correctional Health Care Services, and Tamiya Davis, CDCR Office of Legal Affairs, regarding provision of sign language interpretation during healthcare encounters at SATF (April 24, 2023)	REDACTED & UNDER SEAL
22	Letter from Rita Lomio and Skye Lovett, Prison Law Office, to Tamiya Davis, CDCR Office of Legal Affairs, regarding current operation of the disciplinary process and the effect it has on people with disabilities at SATF (June 23, 2023)	REDACTED & UNDER SEAL
23	Letter from Tania Amarillas, Prison Law Office, to Tamiya Davis, CDCR Office of Legal Affairs, regarding disability accommodations for class member at SATF (September 8, 2023)	REDACTED & UNDER SEAL
24	Massachusetts Department of Correction, Policy 103 DOC 408, Reasonable Accommodations for Inmates	
25	Settlement Agreement, <i>Disability Rights Florida, Inc. v. Julie Jones</i> , Case No. 4:16-cv-47-RH-CAS (N.D. Fla.) (July 7, 2017)	
26	Settlement Agreement, <i>Disability Rights Florida, Inc. v. Florida Department of Corrections</i> , Case No. 2019-CA-2825 (Second Judicial Circuit in and for Leon, Florida) (November 8, 2021)	

Exhibit	Description	
27	Stipulation of Settlement, <i>Ralph Holmes, et al. v. John Baldwin, et al.</i> , Case No. 1:11-cv-02961 (N.D. Ill.) (April 23, 2018)	
28	Revised Implementation of Communication Access Real-Time Translation Services for Deaf and Hard of Hearing Incarcerated Persons Memorandum (July 24, 2023)	
29	WebEx Autocaptioning Transcription of CART Town Hall (August 10, 2023)	REDACTED & UNDER SEAL
30	Emails between Claudia Ceseña and Skye Lovett, Prison Law Office, and Alexander Powell, CDCR Office of Legal Affairs, regarding CART town hall at SATF (August 11 and September 12, 2023)	REDACTED & UNDER SEAL
31	Emails between Marissa Hatton, Prison Law Office, and Alexander Powell, CDCR Office of Legal Affairs, regarding future CART town halls (August 10, 2023)	REDACTED & UNDER SEAL
32a	Screenshots of MP4 file entitled, "Demo CART Services"	
32b	MP4 file entitled, "Demo CART Services"	
33	Emails between Rita Lomio, Prison Law Office, and Alexander Powell, CDCR Office of Legal Affairs, regarding Attachment A to CART memorandum (July 7 and August 2, 2023)	REDACTED & UNDER SEAL
34	Emails between Marissa Hatton, Prison Law Office, and Alexander Powell, CDCR Office of Legal Affairs, regarding CART implementation schedule (August 18 and September 12, 2023)	REDACTED & UNDER SEAL



# **EXHIBIT 1**



# HEALTH CARE SERVICES



## MEMORANDUM

**Date:** FEB 14 2018

**To:** CHIEF EXECUTIVE OFFICERS  
WARDENS

**From:**

A handwritten signature in blue ink, appearing to read 'V. Cullen'.

VINCENT S. CULLEN, Director  
Corrections Services  
California Correctional Health Care Services

A handwritten signature in blue ink, appearing to read 'K. Allison'.

KATHLEEN ALLISON, Director  
Division of Adult Institutions  
California Department of Corrections and Rehabilitation

**Subject:** DISCONTINUATION OF PAYMENT FOR DURABLE MEDICAL EQUIPMENT

The purpose of this memorandum is to provide policy direction regarding charges for Durable Medical Equipment (DME).

Effective March 1, 2018, patients within the California Department of Corrections and Rehabilitation (CDCR) will no longer be required to purchase DME as defined in the Inmate Medical Services Policies & Procedures (IMSP&P), Volume 4, *Medical Services, Chapter 32, 4.32.1, Durable Medical Equipment and Medical Supply Procedure*. This policy change does not include Health Care Appliances, such as dentures. If there is any confusion as to what constitutes DME, staff shall reference the DME Formulary on Lifeline under the IMSP&P link. Our current practice is not consistent with other government run healthcare organizations. It also leads to inconsistencies in policy application, drives appeal workload, and results in unnecessary workload for little gain.

The benefits of this change will include:

- Consistent application of policy throughout the state.
- Reduction in grievances and appeals for both California Correctional Health Care Services (CCHCS) and CDCR.
- Reduction in workload for staff.
- Patient access to DME will be consistent with Medi-Cal practices.
- Patients will not refuse to be issued medically-necessary DME in order to avoid losing funds from their trust account.

## MEMORANDUM

Page 2 of 2

Any existing trust account holds for previously-issued DME will be lifted, effective March 1, 2018. Full or partial payments that have already been made prior to March 1, 2018 will not be reimbursed. Accounting staff should not receive any further auto-printed notices for patient DME charges after March 1, 2018.

Nursing staff will continue to have the patient sign for receipt of the Electronic Health Records System (EHRS)-generated CDCR Form 7536, *DME Receipt*, which is sent to Health Information Management for scanning into the EHRS. Nursing will continue to send a copy to the Health Care Compliance Analyst.

Institutions should review any Inmate Orientation materials or media that address the requirements for patients to pay for DME and revise accordingly. Policy and Risk Management Services will expedite the necessary revisions to IMSP&P, Volume 4, *Medical Services, Chapter 32, 4.32.1, Durable Medical Equipment and Medical Supply Procedure*.

If you have any questions or concerns, please contact Vincent Cullen, Director, CCHCS, Corrections Services, at (916) 691-2887.

cc: Diana Toche  
Richard Kirkland  
Roscoe Barrow  
Russa Boyd  
Jane Robinson  
Katherine Tebrock  
Morton Rosenberg  
Renee Kanan  
Connie Gipson  
Jeff Macomber  
Kelly Mitchell  
Jaime Corvera  
Regional Health Executives  
Associate Directors, Division of Adult Institutions

# **EXHIBIT 2**



**REASONABLE ACCOMMODATION PANEL (RAP) RESPONSE**

RAP Meeting Date: 4/26/2023 Date IAC Received 1824: 4/20/2023

1824 Log Number: SATF-D-23-00802

Inmate's Name: [REDACTED] CDCR #: [REDACTED] Housing: D1-[REDACTED]

RAP Staff Present: ADA Coordinator N. Scaife, HC Chief Executive Officer A. Banerjee, Chief Medical Executive [REDACTED], Psychologist [REDACTED], Health Care Compliance Analyst [REDACTED], Health Care Compliance Analyst [REDACTED], Registered Nurse [REDACTED], Health Care Grievance Representative [REDACTED], Custody Appeals Representative [REDACTED], ADA Staff Services Analyst [REDACTED], Assistant Principle [REDACTED], Field Training Lieutenant [REDACTED]

Summary of Inmate's 1824 Request: Inmate reports difficulty writing; Inmate requests an assistive item.

**Interim Accommodation:**

No interim accommodation required: You are safely accessing programs, services, and activities.

**RAP RESPONSE:**

RAP is able to render a final decision on the following: Inmate reports difficulty writing; Inmate requests an assistive item.

Response: On 4/26/2023, the RAP met and discussed your 1824, Reasonable Accommodation Request.

Per the Interim Accommodation Procedure (IAP) worksheet, dated 4/20/2023, a Field Training Sergeant (FTS) was sent to assist you with filling out a Special Purchase Order (SPO) form. You refused to fill out the SPO form and indicated that you felt you should be provided the assistive device free of charge due to your disability.

Reasonable accommodation for blind inmates that need assistance with writing currently comes in the form of assistance with writing from ADA workers. If there are no ADA workers available, you may request assistance from staff. If you would like a Plastic Letter Writing Guide, you may utilize the





**REASONABLE ACCOMMODATION PANEL (RAP) RESPONSE**

**RAP Meeting Date: 4/26/2023 Date IAC Received 1824: 4/20/2023**

**1824 Log Number: SATF-D-23-00802**

**Inmate's Name: [REDACTED] CDCR #: [REDACTED] Housing: D1-[REDACTED]**

**SPO form to request approval to purchase assistive devices from the maxi-aids catalog.**

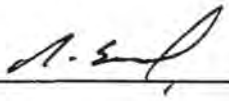
**You are encouraged to utilize the appropriate avenues to address requests or concerns. If you disagree with this determination, you may submit a CDCR 602-1 and your concerns will be addressed through the Inmate Grievance Process.**

**Direction if dissatisfied: If you disagree with this decision and want to file an appeal/grievance, be sure to attach a copy of this response along with your CDCR 1824 as supporting documents.**

**N. Scaife**

**ADA Coordinator/Designee**

**Date sent to inmate:**

  
**Signature**

CSATF OFFICE  
MAY 16 2023  
OF GRIEVANCES



STATE OF CALIFORNIA  
**REASONABLE ACCOMMODATION REQUEST**  
 CDCR 1824 (Rev. 09/17)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 1

<b>INSTITUTION</b> (Staff use only) SATF	<b>LOG NUMBER</b> (Staff Use Only) SATF-D-23-00802	<b>DATE RECEIVED BY STAFF:</b> CSATF OFFICE APR 20 2023 ✓ OF GRIEVANCES
*****TALK TO STAFF IF YOU HAVE AN EMERGENCY***** <b>DO NOT</b> 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		

<b>INMATE'S NAME</b> (Print) [REDACTED]	<b>CDCR NUMBER</b> [REDACTED]	<b>ASSIGNMENT</b>	<b>HOUSING</b> D1 [REDACTED]
--	----------------------------------	-------------------	---------------------------------

**INSTRUCTIONS:**

- 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?**  
 I have trouble writing

**WHY CAN'T YOU DO IT?**  
 I am visually impaired

**WHAT DO YOU NEED?**  
 There is a device that helps guide people as they write I need one

(Use the back of this form if more space is needed)

**DO YOU HAVE DOCUMENTS THAT DESCRIBE YOUR DISABILITY?**    Yes     No     Not Sure

List and attach documents, if available:

I understand that [REDACTED] me, and my failure to cooperate may cause this request to be disapproved.

4/19/23

DATE SIGNED

Assistance in completing this form was provided by:

_____	_____	_____
Last Name	First Name	Signature





DRAFT

**Interim Accommodation Procedure (IAP) / Interview Worksheet**

Upon receipt of a CDCR 1824, the Institution Appeals Coordinator (IAC) shall complete Step 1 below within 1 working day. Step 2 should be completed whenever the inmate's request is unclear or when additional input from the inmate and/or staff will help the RAP better understand the request.

Inmate: [REDACTED] CDCR #: [REDACTED] CDCR 1824 Log #: SATF-D-23-00802

**STEP 1 INTERIM ACCOMMODATION ASSESSMENT**

Date CDCR 1824 received by IAC: 04 / 20 / 23

Does the inmate raise issues on the CDCR 1824 that may cause the inmate injury or other serious harm while it is being processed? **Base your assessment solely on the inmate's claim, assuming the claim is true.**

Yes / Unsure (Complete Steps 2 &/or 3)  No (None of the issues below are present) [Note: IAC may still obtain information for RAP by completing Step 2]

Issues that may cause the inmate injury or other serious harm include, but are not limited to:

- Falling or the potential for falling.
- Cannot safely access upper bunk.
- Workplace safety concerns.
- Inability to perform essential manual tasks (e.g., access dining hall, carry food tray, shower, use toilet).
- Maintenance, repair, or replacement of health care appliances which involve safety concerns.
- Cannot safely navigate stairs.
- Seizure disorder and is assigned an upper bunk.
- Hearing or vision claims that may jeopardize safety.

[REDACTED] CCI [REDACTED] 04 / 20 / 23  
 Person Completing Step 1 Title Signature Date Completed

**STEP 2 CDCR 1824 INTERVIEWS**

Note: Be sure to complete Step 3 when Step 1 was "Yes/Unsure"

Date assigned: 04 / 20 / 23 Due back to IAC: 04 / 20 / 23 Returned to IAC: 04 / 20 / 23

Assigned to: FACILITY D Title: FTS

Information needed: PLEASE ASSIST I/M WITH SPECIAL PURCHASE ORDER FORM.

Note 1: Attach a DECS printout listing inmate's current status (including DPP codes, DDP codes, TABE score, etc.)

Note 2: IAC and/or RAP may assign to self and obtain information either telephonically or in person

Inmate Interview Date/Time: 4/20/2023 Location: FACILITY D PROGRAM

Interviewer notes: SEE ATTACHED CDCR 128B

Staff Interviewed: \_\_\_\_\_ Title: \_\_\_\_\_ Interview date: \_\_\_ / \_\_\_ / \_\_\_

Interviewer Notes: \_\_\_\_\_

Staff Interviewed: \_\_\_\_\_ Title: \_\_\_\_\_ Interview date: \_\_\_ / \_\_\_ / \_\_\_

Interviewer Notes: \_\_\_\_\_

Notes: I/M DOES NOT REPORT DIFFICULTY ACCESSING PSA'S OR PERFORMING ADL'S. I/M MAY REVIEW MAIL-AND CATALOG & UTILIZE SPECIAL PURCHASE ORDER FORM TO REQUEST APPROVAL TO PURCHASE ASSISTIVE ITEMS.

[REDACTED] SERGEANT [REDACTED] 4 / 20 / 2023  
 Interviewer (Print Name) Title Signature Date Completed





DRAFT

IAP / Interview Worksheet

Inmate: [REDACTED] CDCR #: [REDACTED] CDCR 1824 Log #: SATF-D-23-00802

**Step 3: DECISION REGARDING WHETHER AN INTERIM ACCOMMODATION IS NECESSARY** (See Note below)

An Interim Accommodation **IS NOT** required.

Reason: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

An Interim Accommodation **IS** required.

Reason: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Accommodation(s) provided:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date provided:

\_\_\_\_/\_\_\_\_/\_\_\_\_  
 \_\_\_\_/\_\_\_\_/\_\_\_\_  
 \_\_\_\_/\_\_\_\_/\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Person Completing Step 3

Title

Signature

Date Completed

Note: When information is unable to prove or disprove a claim, consider an interim accommodation as a precautionary measure.

**IAP processing instructions for the Appeals Coordinator**

- Step 1 must always be completed prior to the initial RAP.
- Step 2 should be completed whenever the inmate's request is unclear, or when additional input from the inmate and/or staff will help the RAP better understand the request.
- If Step 1 is "Yes/Unsure," proceed to Steps 2 and/or 3. The interviews conducted in Step 2 will help with the decision in Step 3. Step 3 documents the decision. When the IAC is not able to complete steps 2 & 3 prior to the RAP (e.g., the request was received the day before the RAP) steps 2 and 3 may be completed during the RAP or shortly thereafter. Under no circumstances shall a decision regarding the need for an IAP exceed 5 working days.
- Consult with the ADA Coordinator when unsure which box to check in Step 1.
- Maintain ongoing communication with the ADA Coordinator regarding the interim accommodation process.

**Step 2 Interviewer Instructions**

- Your task is to obtain additional information that will assist the Reasonable Accommodation Panel (RAP) better understand issues raised by an inmate on a CDCR 1824, Reasonable Accommodation Request Form.
- Take a moment to read the CDCR 1824 and then review the information being requested in Step 2. If you need clarification, contact the Appeals Office or the ADA Coordinator.
- Interview the inmate who filed the CDCR 1824 and/or staff who may have knowledge about the inmate's request.
- Inmates often have difficulty expressing themselves in writing. Your interview notes should try to clarify what the problem is, and what the inmate wants (e.g., cane, lower bunk, shower chair, job modification, etc.).
- Reminder. Be sure to return this form to the Inmate Appeals Coordinator by the due date listed in Step 2.



**DIRECT FROM VENDOR-  
SPECIAL PURCHASE ORDER FORM  
MEDICAL/ADA ORDERS**

THE BELOW LISTED ITEMS ARE TO BE SHIPPED TO:  
NAME \_\_\_\_\_

APPROVAL DATE: \_\_\_\_\_

CDCR NUMBER \_\_\_\_\_

NOTE: THE BELOW LISTED ITEMS MUST BE SHIPPED WITHIN 90 DAYS OF APPROVAL DATE: ITEMS SHIPPED AFTER 90 DAYS OF APPROVAL DATE WILL BE RETURNED TO THE SENDER AT THE INMATE'S EXPENSE, DESTROYED OR DONATED.

HOUSING \_\_\_\_\_

CALIFORNIA SUBSTANCE ABUSE TREATMENT FACILITY  
900 QUEBEC AVE  
CORCORAN, CA 93212

PAGE #	CATALOG #	QUANTITY	NAME OF ITEM	COLOR	SIZE	ITEM PRICE
SUBTOTAL						
TAX 8%						
SHIPPING & HANDLING						
TOTAL TO VENDOR						

APPROVED / DISAPPROVED \_\_\_\_\_

(PRINT AND SIGN NAME)

CUSTODY CAPTAIN OR ADA COORDINATOR

\*MUST HAVE SIGNATURE TO VERIFY THIS IS A MEDICAL ISSUE

NAME OF SENDING VENDOR  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WEBSITE: \_\_\_\_\_

NAME OF PARTY PURCHASING FOR INMATE  
\_\_\_\_\_

PHONE # \_\_\_\_\_

BY SIGNING BELOW, I UNDERSTAND THAT THE ABOVE LISTED ITEMS MUST BE SHIPPED DIRECTLY FROM THE ABOVE LISTED VENDOR **ONLY**. THAT IT IS MY RESPONSIBILITY TO INFORM THE PARTY MAKING THE PURCHASE FOR ME OF THE CORRECT PROCEDURES FOR PURCHASING THE ABOVE ITEMS. I UNDERSTAND THAT IF MY PRIVILEGE GROUP CHANGES PRIOR TO RECEIVING THIS ORDER, THE ITEMS WILL BE RETURNED TO SENDER. I FURTHER UNDERSTAND THAT ALL ITEMS SENT FROM THE VENDOR MUST FALL UNDER THE GUIDELINES OF DOM 54030. ALL ITEMS NOT IN COMPLIANCE WILL EITHER BE SHIPPED BACK TO THE SENDER AT THE INMATE'S EXPENSE, DESTROYED OR DONATED.

INMATE'S SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

**PLACE ORDER BY: SENDING THIS FORM AND SOURCE OF PAYMENT TO VENDOR, PHONE ORDER TO VENDOR OR USE VENDOR'S INTERNET WEB-SITE.**





Inmate Name: [REDACTED] CDC Number [REDACTED] Bed Number: D1-[REDACTED]

I conducted an interview with Inmate [REDACTED] in the Facility D Program Office on April 20, 2023. In regard to the Reasonable Accommodation Request CDCR 1824 he had submitted on April 19, 2023. Inmate [REDACTED] wrote he had trouble writing, is visually impaired, and requested a device to help guide writing on paper. During the interview I presented a Medical/ADA Special Purchase Order Form and explained I could assist Inmate [REDACTED] by completing the form for him to reflect his request to purchase an assistive device for writing. Inmate [REDACTED] stated he did not want to have the form filled out and believed he should be provided with the assistive device free of charge due to him needing the device due to his disability. Inmate [REDACTED] stated he had recently met with a representative from the Prison Law Office and the Prison Law Office instructed him to submit the CDCR 1824 and also informed him they believe he should not have to pay for his own assistive device for writing. The assistive device Inmate [REDACTED] was requesting is a Plastic Letter Writing Guide with thirteen (13) one-half inch wide openings for normal lined paper. I informed Inmate [REDACTED] I would document our conversation and the information he provided me with and submit it with the Reasonable Accommodation Request CDCR 1824.

Original: Central File  
CC: Facility Captain  
Counselor  
Inmate

[REDACTED]

Correctional Sergeant  
CSATF-SP at Corcoran

Date: April 20, 2023 INFORMATIONAL CSATF-SP at Corcoran






Name: [REDACTED]

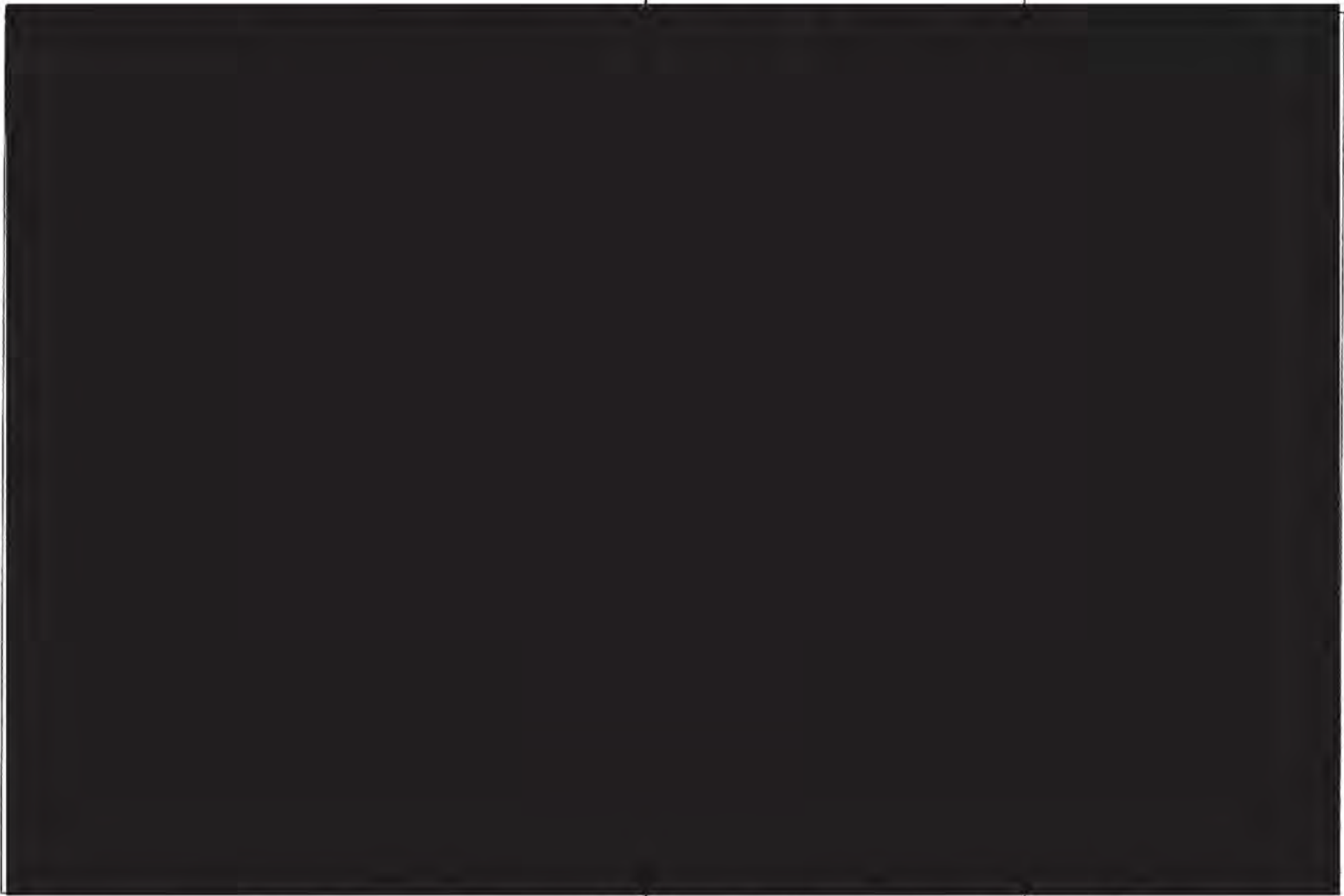
CDC #: [REDACTED] PID #: [REDACTED]

CHSS035C

# DPP Disability/Accommodation Summary

Thursday April 20, 2023 12:35:12

As of:  





**Disability Verification Process (DVP)  
Worksheet  
SIDE 1**

INMATE'S NAME (Print) [REDACTED]	CDCR 1824 LOG NUMBER SATF - D  23-00802
CDCR NUMBER [REDACTED]	

**INSTRUCTIONS**

- A SME Shall COMPLETE SECTION 1 prior to or during the INITIAL RAP.
- When the RAP needs more information, the ADA Coordinator shall complete Section 2 during the RAP and assign the DVP for Section 3 to be completed (See back of form).

<b>SECTION 1 – SME FINDINGS</b>		AGPA
Person completing worksheet: [REDACTED]		Title: _____
Type of Review: <input type="checkbox"/> Health care review <input type="checkbox"/> Mental Health review <input type="checkbox"/> Education / learning disability review		
<input checked="" type="checkbox"/> Other review: HCGO		
<input type="checkbox"/> File Review conducted. Documents obtained:		
<input type="checkbox"/> CDCR 1845 dated: ___/___/___	<input type="checkbox"/> CDCR 7410 dated: ___/___/___	<input type="checkbox"/> CDCR 128-C2: dated: ___/___/___
<input type="checkbox"/> CDCR 7538 dated: ___/___/___	<input type="checkbox"/> CDC 7221-DME dated: ___/___/___	
<input type="checkbox"/> CDCR 128-C3: dated: ___/___/___	<input type="checkbox"/> CDCR 7386: dated: ___/___/___	<input type="checkbox"/> CDCR 7388: dated: ___/___/___
<input type="checkbox"/> Other: _____ dated: ___/___/___	<input type="checkbox"/> Other: _____ dated: ___/___/___	
<input type="checkbox"/> Recently evaluated for this issue. Date seen: ___/___/___		
<input type="checkbox"/> Evaluation (exam/interview) scheduled. Anticipated date to be seen: ___/___/___		
Disability indicated: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unable to Determine		TABE 12.9 DPM, DNH, DPV
Summary of findings: _____		
Summary of limitations: _____		
Comments: GRIEVANCE REGARDING RAP ISSUE		
[REDACTED]		4/26/2023
[REDACTED] Subject Matter Expert		Date Signed



# **EXHIBIT 3**



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# **EXHIBIT 4**

**OFFICE OF LEGAL AFFAIRS**

Jennifer Neill  
General Counsel  
P.O. Box 942883  
Sacramento, CA 94283-0001



May 1, 2023

VIA EMAIL ONLY

Tania Amarillas  
Prison Law Office  
tania@prisonlaw.com

**RE: *ARMSTRONG V. NEWSOM: ADVOCACY REGARDING [REDACTED] ([REDACTED]) AT CALIFORNIA SUBSTANCE ABUSE TREATMENT FACILITY***

Dear Ms. Amarillas:

I write in response to your email dated November 16, 2022, regarding *Armstrong* class member [REDACTED] ([REDACTED]) housed at the California Substance Abuse Treatment Facility (SATF). In your email, you made the following requests of the California Department of Corrections and Rehabilitation: 1) provide Mr. [REDACTED] an Ergo Writer; and 2) explain and provide details regarding the status of the Primary Care Physician's (PCP) Ergo Writer request for services (RFS).

**1. ERGO WRITER**

As to your request to provide Mr. [REDACTED] an Ergo Writer, our policy regarding ADA personal property requires an incarcerated person (IP) to submit a Special Purchase Order Form to the Americans with Disabilities Act Coordinator (ADAC). Once requested, the ADAC either approves or denies the request. If approved, the IP then selects the device they want to purchase from a catalog and it is purchased through department-approved vendors. Maxi Aids is the catalog used at SATF and is available to IPs in paper format, but also available online, if you want to check it out.

On August 17, 2021, Mr. [REDACTED] submitted a request for one Steady Write. This device was approved for purchase by the ADAC and delivered to Mr. [REDACTED] on February 17, 2022.

Please note that the reason Mr. [REDACTED] received a Steady Write is because the Ergo Writer is not available for purchase in the Maxi Aids catalog.

**2. PCP'S ERGO WRITER RFS**

As to your request to explain the status of the PCP's Ergo Writer RFS, California Correctional Health Care Services provided the following response:

Tania Amarillas

Page 2

Unfortunately, there is no record of the RFS and SATF health care cannot speak to why it was not scanned. However, an RFS was not necessary for this particular appliance, since the Ergo Writer is not ordered or supplied by healthcare. Mr. [REDACTED] requested a Steady Write, which custody issued to the patient on 2/17/2022.

If you have any questions, please contact me at [REDACTED].

Sincerely,

**/s/ Ramon Ruiz**

RAMON RUIZ  
Attorney, Class Action Team  
Office of Legal Affairs

cc: Ed Swanson, Court Expert  
Plaintiffs' Counsel  
Defendants' Counsel

# **EXHIBIT 5**



**Rita Lomio**

---

**From:** Ruiz, Ramon@CDCR <ramon.ruiz@cdcr.ca.gov> on behalf of Ruiz, Ramon@CDCR  
**Sent:** Wednesday, July 5, 2023 12:47 PM  
**To:** Tania Amarillas  
**Cc:** Davis, Tamiya@CDCR; Rita Lomio; Audrey Lim; Ed Swanson; Audrey Barron; Margot Mendelson; Tess Borden; Patrick Booth; Jacob Hutt; Claudia Ceseña; Armstrong Team; Gay C. Grunfeld; Penny Godbold; Thomas Nolan; Nathalie Welch; Ben Bien-Kahn; Armstrong Team - RBG only; Powell, Alexander@CDCR; Meyer, Nicholas@CDCR; Ferguson, Patricia@CDCR; Johnson, Gannon@CDCR; Thao, Chor@CDCR; CDCR OLA Armstrong CAT Mailbox; Sharon Garske; Trace Maiorino; Sean Lodholz; Mark.Jackson@doj.ca.gov; Houston, Mona@CDCR; Hernandez, Jillian@CDCR; Laure.Hoogland@cdcr.ca.gov; Beland, Bruce@CDCR; Gaultney, Robert@CDCR; Dovey, John@CDCR; Hart, Robin@CDCR; CCHCS Accountability Log@CDCR; Williams, Joseph@CDCR; Jefferson, Cathy@cdcr; Anderson, Jason@CDCR; Edwards, Joseph.K@CDCR; Robinson, Lynda@CDCR; Pires, Barbara@CDCR; Andrade, Courtney@CDCR; Solis, Miguel@CDCR; Moses, Jane@CDCR; Stevens, Dawn@CDCR; Tonis, Alexandra@CDCR; Ly, Jimmy@CDCR; Powell, Jay@CDCR; Armedo, Gently@CDCR; Leon Guerrero, Joshua@CDCR; Perez, Aaron@CDCR; Smith, Kandie@CDCR; Matthis, Monique@CDCR; Fernandez, Gloria@CDCR; Anaya, Yvonne@CDCR; Saechao, Christina@CDCR; Williams, Claudia@CDCR; Vo, Ngoc@CDCR; Nguyen, Tiffany@CDCR; Lay, Janice@CDCR; Lorey, Dawn@CDCR; Welch, Lois@CDCR; Faris, Steven@CDCR; Olena Likhachova; CDCR OLA Armstrong CAT Mailbox  
**Subject:** RE: ARM | Ergo Writer for [REDACTED], SATF

Dear Tania,

Mr. [REDACTED] was authorized to purchase an Ergo Writer and said his mother will be purchasing it for him. Regarding whether CDCR will provide Mr. [REDACTED] with an Ergo Writer at no cost, in our previous response, we outlined our policy regarding ADA personal property.

Kind regards,

Ramon Ruiz  
Attorney, Class Action Team  
Office of Legal Affairs  
California Department of Corrections and Rehabilitation  
Cell: [REDACTED]  
[ramon.ruiz@cdcr.ca.gov](mailto:ramon.ruiz@cdcr.ca.gov)

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**From:** Tania Amarillas <tania@prisonlaw.com>

**Sent:** Wednesday, May 3, 2023 4:11 PM

**To:** Ruiz, Ramon@CDCR <ramon.ruiz@cdcr.ca.gov>

**Cc:** Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>; Rita Lomio <rlomio@prisonlaw.com>; Audrey Lim <audrey@prisonlaw.com>; Ed Swanson <ed@smllp.law>; Audrey Barron <audrey@smllp.law>; Margot Mendelson <mmendelson@prisonlaw.com>; Tess Borden <tess@prisonlaw.com>; Patrick Booth <patrick@prisonlaw.com>; Jacob Hutt <jacob@prisonlaw.com>; Claudia Ceseña <claudia@prisonlaw.com>; Armstrong Team <arm-plo@prisonlaw.com>; Gay C. Grunfeld <ggrunfeld@rbgg.com>; Penny Godbold <pgodbold@rbgg.com>; Thomas Nolan <tnolan@rbgg.com>; Nathalie Welch <nwelch@rbgg.com>; Ben Bien-Kahn <bbien-kahn@rbgg.com>; Armstrong Team - RBG only <ArmstrongTeam@rbgg.com>; Powell, Alexander@CDCR <Alexander.Powell@cdcr.ca.gov>; Meyer, Nicholas@CDCR <Nicholas.Meyer@cdcr.ca.gov>; Ferguson, Patricia@CDCR <Patricia.Ferguson@cdcr.ca.gov>; Johnson, Gannon@CDCR <Gannon.Johnson@cdcr.ca.gov>; Thao, Chor@CDCR <Chor.Thao@cdcr.ca.gov>; CDCR OLA Armstrong CAT Mailbox <OLAArmstrongCAT@cdcr.ca.gov>; Sharon Garske <Sharon.Garske@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Sean Lodholz <Sean.Lodholz@doj.ca.gov>; mark.jackson@doj.ca.gov; Houston, Mona@CDCR <Mona.Houston2@cdcr.ca.gov>; Hernandez, Jillian@CDCR <Jillian.Hernandez@cdcr.ca.gov>; Laure.Hoogland@cdcr.ca.gov; Beland, Bruce@CDCR <Bruce.Beland@cdcr.ca.gov>; Gaultney, Robert@CDCR <Robert.Gaultney@cdcr.ca.gov>; Dovey, John@CDCR <John.Dovey@cdcr.ca.gov>; Hart, Robin@CDCR <Robin.Hart@cdcr.ca.gov>; CCHCS Accountability Log@CDCR <m\_CCHCSAcntLog@cdcr.ca.gov>; Williams, Joseph@CDCR <Joseph.Williams@cdcr.ca.gov>; Jefferson, Cathy@cdcr <Cathy.Jefferson@cdcr.ca.gov>; Anderson, Jason@CDCR <Jason.Anderson@cdcr.ca.gov>; Edwards, Joseph.K@CDCR <Joseph.K.Edwards@cdcr.ca.gov>; Robinson, Lynda@CDCR <Lynda.Robinson@cdcr.ca.gov>; Pires, Barbara@CDCR <Barbara.Pires@cdcr.ca.gov>; Andrade, Courtney@CDCR <Courtney.Andrade@cdcr.ca.gov>; Solis, Miguel@CDCR <Miguel.Solis2@cdcr.ca.gov>; Moses, Jane@CDCR <Jane.Moses@cdcr.ca.gov>; Stevens, Dawn@CDCR <Dawn.Stevens@cdcr.ca.gov>; Tonis, Alexandria@CDCR <Alexandrea.Tonis@cdcr.ca.gov>; Ly, Jimmy@CDCR <Jimmy.Ly@cdcr.ca.gov>; Powell, Jay@CDCR <Jay.Powell@cdcr.ca.gov>; Arredo, Gently@CDCR <Gently.Arredo@cdcr.ca.gov>; Leon Guerrero, Joshua@CDCR <Joshua.LeonGuerrero@cdcr.ca.gov>; Perez, Aaron@CDCR <Aaron.Perez@cdcr.ca.gov>; Smith, Kandie@CDCR <Kandie.Smith@cdcr.ca.gov>; Matthis, Monique@CDCR <Monique.Matthis@cdcr.ca.gov>; Fernandez, Gloria@CDCR <Gloria.Fernandez2@cdcr.ca.gov>; Anaya, Yvonne@CDCR <Yvonne.Anaya@cdcr.ca.gov>; Saechao, Christina@CDCR <Christina.Saechao@cdcr.ca.gov>; Williams, Claudia@CDCR <Claudia.Williams@cdcr.ca.gov>; Vo, Ngoc@CDCR <Ngoc.Vo@cdcr.ca.gov>; Nguyen, Tiffany@CDCR <Tiffany.Nguyen@cdcr.ca.gov>; Lay, Janice@CDCR <Janice.Lay@cdcr.ca.gov>; Lorey, Dawn@CDCR <Dawn.Lorey@cdcr.ca.gov>; Welch, Lois@CDCR <Lois.Welch@cdcr.ca.gov>; Faris, Steven@CDCR <Steven.Faris@cdcr.ca.gov>; Olena Likhachova <Olena.Likhachova@doj.ca.gov>

**Subject:** Re: ARM | Ergo Writer for [REDACTED] [REDACTED] SATF

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Dear Ramon:

Thank you for your response. Unfortunately, the response does not adequately address Mr. [REDACTED] need for an Ergo Writer. I spoke with Mr. [REDACTED] at SATF on April 24, 2023. Mr. [REDACTED] confirmed he was allowed to purchase a Steady Write from MaxiAids by the SATF ADA Coordinator. However, after trying the Steady Write, Mr. [REDACTED] found that it does not properly accommodate his upper extremity disability due to the force needed to sustain the Steady Write upright. Mr. [REDACTED] reported he can only use the Steady Write for a few minutes before he has to set it down and take a break. Mr. [REDACTED] would much prefer to have the Ergo Writer because it can easily attach to his hand to offer support while using a pen or pencil. Mr. [REDACTED] mentioned the need for an Ergo Writer to his PCP a few months ago, but he was told that there was no order in the medical records for such an item. Your response seems to confirm that medical staff do not know what happened to the RFS for the Ergo Writer.

In light of this information, we would like to know the following:

1. Are Defendants going to provide Mr. [REDACTED] with an Ergo Writer at no cost so that he can independently write and access, for example, Defendants' written grievance process? If no, why not?
2. If Defendants are not going to provide Mr. [REDACTED] with an Ergo Writer at no cost, can Mr. [REDACTED] purchase the Ergo Writer even if it is not listed in the Maxi Aids catalog? Please explain.

Thank you,  
Tania

On Mon, May 1, 2023 at 5:34 PM Ruiz, Ramon@CDCR <[ramon.ruiz@cdcr.ca.gov](mailto:ramon.ruiz@cdcr.ca.gov)> wrote:

Hi Tania,

Please find attached CDCR's response to your email on behalf of Mr. [REDACTED]

Let me know if you have any questions.

Kind regards,

Ramon Ruiz

Attorney, Class Action Team

Office of Legal Affairs

California Department of Corrections and Rehabilitation

Cell: [REDACTED]

[ramon.ruiz@cdcr.ca.gov](mailto:ramon.ruiz@cdcr.ca.gov)

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**From:** Tania Amarillas <[tania@prisonlaw.com](mailto:tania@prisonlaw.com)>

**Sent:** Wednesday, November 16, 2022 10:00 AM

**To:** Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Foss, Tammy@CDCR <[Tammy.Foss@cdcr.ca.gov](mailto:Tammy.Foss@cdcr.ca.gov)>

**Cc:** Rita Lomio <[rlomio@prisonlaw.com](mailto:rlomio@prisonlaw.com)>; Audrey Lim <[audrey@prisonlaw.com](mailto:audrey@prisonlaw.com)>; Ed Swanson <[ed@smlplp.law](mailto:ed@smlplp.law)>; Audrey Barron <[audrey@smlplp.law](mailto:audrey@smlplp.law)>; Margot Mendelson <[mmendelson@prisonlaw.com](mailto:mmendelson@prisonlaw.com)>; Tess Borden <[tess@prisonlaw.com](mailto:tess@prisonlaw.com)>; Patrick Booth <[patrick@prisonlaw.com](mailto:patrick@prisonlaw.com)>; Jacob Hutt <[jacob@prisonlaw.com](mailto:jacob@prisonlaw.com)>; Claudia Ceseña <[claudia@prisonlaw.com](mailto:claudia@prisonlaw.com)>; Armstrong Team <[arm-plo@prisonlaw.com](mailto:arm-plo@prisonlaw.com)>; Gay C. 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**Subject:** ARM | Ergo Writer for [REDACTED] [REDACTED] SATF

**CAUTION:** This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Tamiya and Tammy:

I write regarding Mr. [REDACTED] [REDACTED] SATF, a class member with an upper extremity disability awaiting delivery of an Ergo Writer to assist with writing tasks. Mr. [REDACTED] has requested an Ergo Writer as a

reasonable accommodation for more than two years, using the 1824, 7362, and 602-HC processes. We wrote to you regarding Mr. [REDACTED]'s need for an Ergo Writer on October 21, 2020, January 8, 2021, April 14, 2021, and March 24, 2022. We received a partial response on May 11, 2021.

According to Mr. [REDACTED]'s medical records, his PCP submitted a "paper RFS" for an Ergo Writer on December 6, 2021. The RFS was not scanned into the record, and there is no documentation regarding its status. In a headquarters' level response to a 602-HC dated May 25, 2022, Mr. [REDACTED] was told that he "would be contacted regarding ergo writer update [by a nurse]" and he should "discuss the status for ergo writer" with his PCP.

Nonetheless, Mr. [REDACTED] still has not been provided an Ergo Writer, almost a year after the RFS was submitted.

On June 15, 2022, the Court Expert, as part of the ongoing investigation of SATF, inquired about the status of Mr. [REDACTED]'s Ergo Writer. We are deeply concerned that even then, Defendants failed to take action to ensure Mr. [REDACTED] receives this reasonable accommodation.

Defendants' response to the Court Expert said that "Ergo writers are not considered to be Durable Medical Equipment, are not listed on the Standard Supply List, and are not ordered by the Primary Care Provider, but are an item that, if issued, would be provided by custody and not through California Correctional Health Care Services."

We are confused by this dismissive response given the PCP's December 6 RFS submission and the 602-HC response, and we are troubled that CDCR and CCHCS did not work together to address this issue after it was brought to their attention. This again evidences "poor communication, [] lack of cohesive partnership, and no mutual accountability" between disciplines that we have seen elsewhere at SATF. *See* SATF CCHCS Healthcare Facilities Maintenance Assessment Results at 20 (Sept. 29, 2022).

We request the following:

- 1. Please provide Mr. [REDACTED] an Ergo Writer immediately.**
- 2. Please explain the status of the PCP's Ergo Writer RFS. Why was the RFS not scanned into and tracked through the electronic medical record? Was it approved or disapproved, and when and by whom? Was an RFS the proper way to order the Ergo Writer?**

We would appreciate any help you can provide to finally provide Mr. [REDACTED] with this important accommodation.

Thank you,

Tania

--

Tania Amarillas

Investigator

Prison Law Office

[tania@prisonlaw.com](mailto:tania@prisonlaw.com)

Preferred pronouns: she/her

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Tania Amarillas  
Investigator  
Prison Law Office  
[tania@prisonlaw.com](mailto:tania@prisonlaw.com)

Preferred pronouns: she/her

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# **EXHIBIT 6**

CALIFORNIA DEPARTMENT OF  
Corrections and Rehabilitation

## OFFICE OF GRIEVANCES DECISION

Offender Name: [REDACTED]

Date: 06/24/2023

CDC#: [REDACTED]

Current Location: SATF-Facility E

Current Area/Bed: [REDACTED]

Log #: 000000409934

## Claim #: 001

Received at Institution/Parole Region: California Substance Abuse Treatment Facility

Submitted to Facility/Parole District: California Substance Abuse Treatment Facility

Housing Area/Parole Unit:

Category: Offender Services

Sub-Category: Dispute with RAP/DD Decision

## I. CLAIM

You claim you have continuously been denied the opportunity to purchase a specific assistive device, which will assist you in the ability to write. You claim this is necessary due to an upper extremity disability related to your hand, which makes it difficult to write. You claim you have previously been approved to purchase the Steady Writer, and the Arth-Writer. However, neither of those will suffice, and you specifically need the Ergo Writer.

## II. RULES AND REFERENCES

## A. CONTROLLING AUTHORITY

Armstrong Remedial Plan  
Local Operational Procedure 403 - Disability Placement Plan

## B. DOCUMENTS CONSIDERED

This grievance

## III. REASONING AND DECISION

Your claim is approved. The ADA Coordinator met with you personally on June 23, 2023 and discussed the matter with you. You agreed upon a vendor from which the ADA Coordinator approved your mother to purchase an Ergo Writer for you. This was memorialized on a Special Purchase Order Form for Medical / ADA Orders, in accordance with local operating procedure. You signed the form, and were provided a copy. You were instructed to mail that form to your mother, who is approved to purchase the Ergo Writer for you, and have it delivered directly to the institution from the vendor.

Please note, this action is taking place as a form of reasonable accommodation. The Ergo Writer will not be considered as a prescribed medical device. It is not Durable Medical Equipment (DME). If you lose it or damage it, it will not be replaced for you. It will be considered your personal property, the same as any other approved personal property you would purchase from any departmentally approved vendor.

## IV. REMEDY

You are authorized to purchase an Ergo Writer as described above. The institution will not purchase the item for you. The item must be shipped directly from the approved vendor only (allegromedical.com). It is your responsibility to inform the party making the purchase for you of the correct procedure for purchasing the item. Please ensure to have the transaction complete within 90 days of the date the purchase was approved.

## V. Comments

No violation of departmental policy was discovered with regard to this claim.

**Decision: Granted**

After a thorough review of all the documents and evidence presented to the Office of Grievances, it is the order of the Office of Grievances to GRANT this claim.

If you are dissatisfied with this response you may appeal this decision by mailing the CDCR Form 602-2 included in this response to the California Department of Corrections and Rehabilitation, Office of Appeals. Do not resubmit this claim to the Office of Grievances.

If more than 30 calendar days have passed since this decision was sent to you and the remedy, if any, has not yet been implemented, you may file a CDCR Form 602-3, Request to Implement Administrative Remedy. You must wait until after 30 calendar days have passed to submit this request.

Staff Signature	Title	Date/Time
[REDACTED]	Reviewing Authority	06/13/2023

# **EXHIBIT 7**



**REASONABLE ACCOMMODATION PANEL (RAP) RESPONSE**

RAP Meeting Date: 5/31/2022 Date IAC Received 1824: 5/6/2022 1824 Log Number: 165185401706

Inmate Name: [REDACTED] CDCR #: [REDACTED] Housing: A3-[REDACTED]

RAP Staff Present: T. Miranda, ADA-AW; [REDACTED], P&amp;S; [REDACTED], ADA-CCI; [REDACTED], HCCA; [REDACTED], SP&amp;S-MH; [REDACTED], CCII-IGO; [REDACTED], DDP Sgt.; [REDACTED], SAI(A); [REDACTED], HCGC

**Summary of Inmate's 1824 Request:** You state you have trouble getting out of bed. In addition, you state you have incontinence and use restroom frequently. Further, you state your hearing aids are broken and you can't hear your television with your current earbuds. Ultimately, you state you have arthritis and have trouble gripping utensils, pens and toothbrush. You request the following: a trapeze bar installed above your bunk, incontinence wipes, new hearing aids, over-the-ear headphones or a speaker for your television, and a built-up grip holder for gripping utensils, pens or toothbrush.

**Interim Accommodation:**

- No interim accommodation required: You were offered an accommodation of a bed move to a cell that had a trapeze and you refused the cell move stating you utilize the upper bunk to assist you in getting out of bed. In addition, you stated you did not need any additional accommodations at this time to safely access all programs, services and activities.
- Interim accommodation provided:
- RAP rescinding interim accommodation:

**RAP is unable to process the following request(s):**

- Paroled/discharged/transferred.  Duplicate request. See CDCR 1824 log #:
- Refused to cooperate.  Other:

**Final Response:** After an initial review of your CDCR 1824 was conducted on 5/10/22, the Reasonable Accommodation Panel (RAP) members determined additional information was needed prior to rendering a decision. Your request was revisited and reviewed on 5/31/22 by the RAP. This encompassed a review of your recent health care information, evaluations and SOMS file. A Disability Placement Program Accommodation Summary has identified your Disability Codes as DLT. A recent Disability Verification Process (DVP) Worksheet notes you were seen by your Primary Care Physician (PCP) on 5/6/22 and you denied issues with performing daily living, and the PCP determined a trapeze bar was not indicated at this time. In addition, the DVP notes your PCP referred you to physical therapy and to audiology for broken hearing aid. Staff confirmed you are in possession of your Hearing/Mobility vest, and will provide additional notifications, which may include, but are not limited to, flashing unit lights, having staff or ADA Workers provide you with personal cell side announcements, or personal notification. Further, the DVP notes on May 12, 2022, you arrived to the medical clinic and refused your appointment regarding incontinence supplies. Ultimately, the RAP has provided you a temporarily order for incontinence supplies pending further evaluation by your PCP. Lastly, the RAP provided you over the ear headphones as requested and a foam build-up grip holder, which you accepted and indicated this is an appropriate accommodation.

**Direction If Dissatisfied:** If you disagree with the medical evaluations/final, you can file a CDCR 602 Healthcare Grievance (blue) form. Be sure to attach a copy of this response along with your CDCR 1824 as supporting documents.

If you disagree with the decision made by the RAP you may address your disagreement by attaching the CDCR 1824 package along with this RAP response to a newly completed CDCR 602 Inmate Grievance (green) form.



**Effective Communication:** You have been identified as requiring effective communication (EC), therefore special accommodations will be arranged with your correctional counselor to ensure effective communication and understanding of the decision.

T. Miranda  
\_\_\_\_\_  
ADA Coordinator/Designee



\_\_\_\_\_  
Signature

6-2-22

\_\_\_\_\_  
Date sent to inmate

### Interim Accommodation Procedure (IAP) / Interview Worksheet

Upon receipt of a CDCR 1824, the Institution Appeals Coordinator (IAC) shall complete Step 1 below within 1 working day. Step 2 should be completed whenever the inmate's request is unclear or when additional input from the inmate and/or staff will help the RAP better understand the request.

Inmate: [redacted] CDCR #: [redacted] CDCR 1824 Log #: 165185401706

#### STEP 1 INTERIM ACCOMMODATION ASSESSMENT

Date CDCR 1824 received by IAC: 5 / 6 / 22

Does the inmate raise issues on the CDCR 1824 that may cause the inmate injury or other serious harm while it is being processed? **Base your assessment solely on the inmate's claim, assuming the claim is true.**

**Yes / Unsure** (Complete Steps 2 &/or 3)  **No** (None of the issues below are present) [Note: IAC may still obtain information for RAP by completing Step 2]

Issues that may cause the inmate injury or other serious harm include, but are not limited to:

- Falling or the potential for falling.
- Cannot safely access upper bunk.
- Workplace safety concerns.
- Inability to perform essential manual tasks (e.g., access dining hall, carry food tray, shower, use toilet).
- Maintenance, repair, or replacement of health care appliances which involve safety concerns.
- Cannot safely navigate stairs.
- Seizure disorder and is assigned an upper bunk.
- Hearing or vision claims that may jeopardize safety.

[redacted] AGPA [redacted] 5 / / 22  
Person Completing Step 1 Title Signature Date Completed

#### STEP 2 CDCR 1824 INTERVIEWS

Note: Be sure to complete Step 3 when Step 1 was "Yes/Unsure"

Date assigned: 5 / 6 / 22 Due back to IAC: / / Returned to IAC: / /

Assigned to: [redacted] Title: ADA/CCI

Information needed: IS INMATE ABLE TO SAFELY ACCESS ALL PROGRAMS, SERVICES AND ACTIVITIES?

Note 1: Attach a DECS printout listing inmate's current status (including DPP codes, DDP codes, TABE score, etc.)  
Note 2: IAC and/or RAP may assign to self and obtain information either telephonically or in person.

Inmate Interview Date/Time: 5-6-22 1145 HOURS Location: BUILDING A3

Interviewer notes: INMATE STATED HE DOES NOT REQUIRE THE USE OF A TRAPEZE AND STATED HE UTILIZES THE UPPER BUNK TO ASSIST HIM IN GETTING OUT OF BED. STATES HE DOES NOT NEED ANY ADDITIONAL ACCOMMODATIONS AT THIS TIMES TO SAFELY ACCESS ALL PROGRAMS, SERVICES AND ACTIVITIES.

Staff Interviewed: Title: Interview date: / /  
Interviewer Notes:

Staff Interviewed: Title: Interview date: / /  
Interviewer Notes:

Notes: INMATE WAS OFFERED A BED MOVE TO A CELL WITH A TRAPEZE BUT DECLINED THIS ACCOMMODATION.

[redacted] ADA/CCI [redacted] 5 / 6 / 22  
Interviewer (Print Name) Title Signature Date Completed



**IAP / Interview Worksheet**

Inmate:                     

CDCR #:                     

CDCR 1824 Log #: 165185401706

**Step 3: DECISION REGARDING WHETHER AN INTERIM ACCOMMODATION IS NECESSARY (See Note below)**

An Interim Accommodation **IS NOT required.**

Reason: INMATE WAS OFFERED A BED MOVE TO A CELL WITH A TRAPEZE BUT DECLINED THIS ACCMMODATION.

An Interim Accommodation **IS required.**

Reason: \_\_\_\_\_

Accommodation(s) provided: \_\_\_\_\_

Date provided: \_\_\_\_\_

_____	____/____/____
_____	____/____/____
_____	____/____/____

Comments: \_\_\_\_\_

                      
Person Completing Step 3

ADA/CCI  
Title

                      
Signature

5 / 6 / 22  
Date Completed

Note: When information is unable to prove or disprove a claim, consider an interim accommodation as a precautionary measure.

**IAP processing instructions for the Appeals Coordinator**

- Step 1 must always be completed prior to the initial RAP.
- Step 2 should be completed whenever the inmate's request is unclear, or when additional input from the inmate and/or staff will help the RAP better understand the request.
- If Step 1 is "Yes/Unsure," proceed to Steps 2 and/or 3. The interviews conducted in Step 2 will help with the decision in Step 3. Step 3 documents the decision. When the IAC is not able to complete steps 2 & 3 prior to the RAP (e.g, the request was received the day before the RAP) steps 2 and 3 may be completed during the RAP or shortly thereafter. Under no circumstances shall a decision regarding the need for an IAP exceed 5 working days.
- Consult with the ADA Coordinator when unsure which box to check in Step 1.
- Maintain ongoing communication with the ADA Coordinator regarding the interim accommodation process.

**Step 2 Interviewer Instructions**

- Your task is to obtain additional information that will assist the Reasonable Accommodation Panel (RAP) better understand issues raised by an inmate on a CDCR 1824, Reasonable Accommodation Request Form.
- Take a moment to read the CDCR 1824 and then review the information being requested in Step 2. If you need clarification, contact the Appeals Office or the ADA Coordinator.
- Interview the inmate who filed the CDCR 1824 and/or staff who may have knowledge about the inmate's request.
- Inmates often have difficulty expressing themselves in writing. Your interview notes should try to clarify what the problem is, and what the inmate wants (e.g., cane, lower bunk, shower chair, job modification, etc.).
- Reminder. Be sure to return this form to the Inmate Appeals Coordinator by the due date listed in Step 2.



MCSP Page 1 of 1

INSTITUTION (Staff use only)	LOG NUMBER (Staff Use Only) 165185401706	DATE RECEIVED BY STAFF: MAY 06 2022
------------------------------	---	--

\*\*\*\*\*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

OOG

INMATE'S NAME (Print) [REDACTED]	CDCR NUMBER [REDACTED]	ASSIGNMENT	HOUSING A3
-------------------------------------	---------------------------	------------	---------------

INSTRUCTIONS:

- 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?

- (1) I have trouble getting out of bed.
- (2) I have incontinence and use the restroom frequently.
- (3) My hearing aids are broken.
- (4) I can't hear my TV with my current ear buds
- (5) I have arthritis and have trouble gripping utensils, pens, toothbrush

WHY CAN'T YOU DO IT?

- (1) Mobility disability
- (2) Incontinence
- (3) ~~My hearing aids are broken~~ Hearing disability
- (4) Hearing disability
- (5) Arthritis

WHAT DO YOU NEED?

- (1) A trapeze bar installed above my bunk or onto top bunk.
- (2) Wipes for incontinence.
- (3) New hearing aids
- (4) Over-the-ear headphones or a speaker for my TV
- (5) A built-up grip holder for gripping utensils, pens, toothbrush

(Use the back of this form if more space is needed)

DO YOU HAVE DOCUMENTS THAT DESCRIBE YOUR DISABILITY? Yes  No  Not Sure

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.

[REDACTED]

5/9/2022  
DATE SIGNED

Assistance in completing this form was provided by:

Prison Law office

Last Name

First Name

Signature



**Disability Verification Process (DVP)  
Worksheet  
SIDE 1**

PERSON'S NAME (LAST, FIRST, MIDDLE)	CDCR TRACKING NUMBER
[REDACTED]	[REDACTED]
DATE OF BIRTH	ICD-9 CODE
[REDACTED]	[REDACTED]

**INSTRUCTIONS**

- A SME Shall **COMPLETE SECTION 1** prior to or during the **INITIAL** RAP.
- When the RAP needs more information, the ADA Coordinator shall complete Section 2 during the RAP and assign the DVP for Section 3 to be completed (See back of form).

**SECTION 1 – SME FINDINGS**

Person completing worksheet: [REDACTED] Title: HCCA

Type of Review:  Health care review     Mental Health review     Education / learning disability review  
 Other review: \_\_\_\_\_

File Review conducted. Documents obtained:

<input type="checkbox"/> CDCR 1845 dated: ___/___/___	<input type="checkbox"/> CDCR 7410 dated: ___/___/___	<input type="checkbox"/> CDCR 128-C2: dated: ___/___/___
<input type="checkbox"/> CDCR 7536 dated: ___/___/___	<input type="checkbox"/> CDC 7221-DME dated: ___/___/___	
<input type="checkbox"/> CDCR 128-C3: dated: ___/___/___	<input type="checkbox"/> CDCR 7386: dated: ___/___/___	<input type="checkbox"/> CDCR 7388: dated: ___/___/___
<input type="checkbox"/> Other: _____ dated: ___/___/___	<input type="checkbox"/> Other: _____ dated: ___/___/___	

Recently evaluated for this issue. Date seen: 5 / 6 / 22

Evaluation (exam/interview) scheduled. Anticipated date to be seen: \_\_\_/\_\_\_/\_\_\_

\*\*\*\*\*

Disability indicated:  Yes     No     Unable to Determine

Summary of findings: [REDACTED] was seen by PCP on May 6, 2022 for broken hearing aid, and requesting a trapeze bar due to bad arthritis. [REDACTED] uses cane intermittently. Denies issues with performing daily living.

Summary of limitations: PCP order audiology appointment for broken hearing aid with compliance date 8/4/2022 and consult with physical therapist with compliance date of 8/6/2022

Comments: [REDACTED] refused further examination and was counseled that a trapeze bar was not indicated at this time.  
[REDACTED] is currently housed lower bunk/lower tier. Has pending RN appointment for wipes.

\_\_\_\_\_  
Signature of Subject Matter Expert

5/12/22  
Date Signed



**Disability Verification Process (DVP)  
Assignment**

SIDE 2

INMATE'S NAME (Print) [REDACTED]	CDCR 1824 LOG NUMBER MCSP-165185401706
CDCR NUMBER [REDACTED]	

The DVP Assignment is a request for information by the RAP so a decision can be made regarding a CDCR 1824

**SECTION 2 – DVP ASSIGNMENT** - To be completed by the ADAC during the RAP (when needed)

The ADAC may initiate Steps 2 and 3 when additional information is needed regarding a CDCR 1824 request.

Date assigned: 5 / 10 / 22 Date Due back to RAP: \_\_\_ / \_\_\_ / \_\_\_

Assigned to: [REDACTED] Title: HCCA

Type of Review:  Health care review  Mental Health review  Learning disability review

Information Requested by RAP: Follow up for RN appointment for wipes, and follow up with ace bandage to assist with holding objects for arthritis.

Note: Attach a DECS printout listing inmate's current status (including DPP codes, DDP codes, TABE score, etc.)

**SECTION 3 – DVP ASSIGNMENT FINDINGS**

File Review conducted. Documents obtained:

<input type="checkbox"/> CDCR 1845 dated: ___/___/___	<input type="checkbox"/> CDCR 7410 dated: ___/___/___	<input type="checkbox"/> CDCR 128-C2 dated: ___/___/___
<input type="checkbox"/> CDCR 7536 dated: ___/___/___	<input type="checkbox"/> CDC 7221-DME dated: ___/___/___	
<input type="checkbox"/> CDCR 128-C3 dated: ___/___/___	<input type="checkbox"/> CDCR 7386 dated: ___/___/___	<input type="checkbox"/> CDCR 7388 dated: ___/___/___
<input type="checkbox"/> Other: _____ dated: ___/___/___	<input type="checkbox"/> Other: _____ dated: ___/___/___	

Evaluation (exam/interview) conducted. Date seen: \_\_\_/\_\_\_/\_\_\_

Disability indicated:  Yes  No  Unable to Determine

Summary of findings: On May 12, 2022 [REDACTED] arrived to the clinic and refused appointment with RN for incontinence and wipes.  
[REDACTED] has refused an ace bandage to help accommodate holding smaller items.  
Refused Ace Bandage

Summary of limitations: wipes ordered 5/31/2022 until August 31, 2022

Comments: \_\_\_\_\_

Section 3 Completed by: [REDACTED] Date completed: 5/17/22


Name: [REDACTED]

CDC #: [REDACTED] PID #: [REDACTED]

CHSS035C

# DPP Disability/Accommodation Summary

Friday May 06, 2022 10:03:30 AM

As of:  



# **EXHIBIT 8**



**PRISON LAW OFFICE**  
General Delivery, San Quentin, CA 94964  
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

VIA EMAIL ONLY

July 27, 2023

Ms. Tamiya Davis  
CDCR Office of Legal Affairs

RE: *Armstrong Advocacy Letter*  
██████████, ██████████ MCSP

Dear Ms. Davis:

We write on behalf of ██████████ ██████████ (DPM, unverified learning disability), a 53-year-old class member housed at Mule Creek State Prison (MCSP). Mr. ██████████ has dyslexia, a learning disability that impacts his ability to read and write. In order to accommodate his learning disability, we ask that Mr. ██████████ be issued a reading guide<sup>1</sup> to help him focus while reading.

Mr. ██████████ reported that he was in special education classes when he was a child. He was last enrolled at Lincoln High School in San Jose, CA in the late 1980s. He stated that he previously used a reading guide, which helped him greatly. The reading guide helps to focus his attention on a small section of a paragraph and makes it so the words he is reading do not move around the page. Mr. ██████████ is now attending an ABE II class at MCSP which requires him to complete reading assignments regularly. In May 2023, Mr. ██████████ requested a reading guide (he called it a "corrective lens") in an 1824. *See* 1824 Log No. 23-00342. Unfortunately, it appears the RAP may have misunderstood his request as he was offered a magnifier sheet and not a reading guide. Mr. ██████████ appealed the RAP response on a 602-HC stating he was "dissatisfied [sic] and disagree[d] with [the] RAP response" and asked to be tested for dyslexia and issued a "specail [sic] lens so the words don't move as much." *See* 602-HC submitted June 15, 2023. Mr. ██████████ has yet to receive a response to his 602-HC.

**Given this information, we ask that Mr. ██████████ be issued a reading guide to keep on his person, to accommodate his dyslexia in education and in all other settings.**

Additionally, although the RAP provided Mr. ██████████ with an unverified learning disability designation in May, it is not clear from the RAP response whether MCSP took steps to verify his learning disability, including by requesting verification documents from Lincoln High School where Mr. ██████████

---

<sup>1</sup> [https://www.rainbowresource.com/product/031578/See-N-Read-Reading-Tool---Document-Size-8-1-2-x-3.html?trackcode=googleBase&gclid=CjwKCAjw5MOlBhBTEiwAAJ8e1uok\\_4yLZ-6NFSpwrrhg0TMLI1z9OkMzpgtFO7YLGJLD3pV5d7MokRoC\\_uoQAvD\\_BwE](https://www.rainbowresource.com/product/031578/See-N-Read-Reading-Tool---Document-Size-8-1-2-x-3.html?trackcode=googleBase&gclid=CjwKCAjw5MOlBhBTEiwAAJ8e1uok_4yLZ-6NFSpwrrhg0TMLI1z9OkMzpgtFO7YLGJLD3pV5d7MokRoC_uoQAvD_BwE)

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Ms. Tamiya Davis  
Re: [REDACTED], [REDACTED]  
July 27, 2023  
Page 2

reports having been in special education. **Please ensure that education staff request those and any other relevant records so that Mr. [REDACTED]'s learning disability can be verified.**

Finally, please produce Mr. [REDACTED]'s 128-B chrono and any other information regarding the accommodations being made available to him, which the RAP describes as "accommodations similar to those offered while you were an EOP student." **Specifically, if he is not already receiving Resource Specialist Program (RSP) services, please add Mr. [REDACTED] to the RSP Teacher caseload for so long as he remains in ABE classes, given his dyslexia and related accommodation needs.**

Thank you for your prompt attention to this matter.

Sincerely,



Tania Amarillas  
Investigator under Patrick Booth and Tess Borden

cc: Mr. [REDACTED]  
Ed Swanson  
Co-counsel  
Patricia Ferguson, Alexander Powell, Nicholas (Nick) Meyer, Chor Thao, Ramon Ruiz, Amber Lopez, OLA Armstrong (OLA)  
Lois Welch, Steven Faris (OACC)  
Brienne Burkart, Sandra Alvarez (CCHCS Legal)  
Mona Houston, Lourdes White, Jillian Hernandez, Cory Lo, CAMU Mailbox (DAI)  
Diana Toche, Joseph Bick, John Dovey, Robin Hart, CCHCS Accountability, Joseph (Jason) Williams, Cathy Jefferson, Jason Anderson, Dawn Lorey, Jane Moses, Joshua (Jay) Leon Guerrero, Aaron Perez (CCHCS)  
Sharon Garske, Trace Maiorino, Sean Lodholz, Mark Jackson, Olena Likhachova (OAG)



# **EXHIBIT 9**

**MULE CREEK STATE PRISON**

Patrick Covello, Warden  
David Smiley, CEO  
4001 Highway 104, Lone, CA



September 13, 2023

VIA EMAIL ONLY

Tania Amarillas  
Prison Law Office  
Tania@prisonlaw.com

**RE: ARMSTRONG V. NEWSOM: [REDACTED], [REDACTED] - MCSP**

Dear Ms. Amarillas:

I write in response to your letter of July 27, 2023, regarding [REDACTED] [REDACTED] (DPM, UNVERIFIED LD), at Mule Creek State Prison (MCSP). You requested the California Department of Corrections and Rehabilitation (CDCR): (1) Issue [REDACTED] a reading guide to keep on his person, to accommodate his dyslexia in education and in all other settings; (2) Ensure education staff request all relevant records so [REDACTED]'s learning disability can be verified; and (3) Add [REDACTED] to the Resource Specialist Program (RSP) teacher caseload as long as he remains in Adult Basic Education (ABE) classes, given his dyslexia and related accommodation needs.

**I. REGARDING THE REQUEST TO ISSUE [REDACTED] A READING GUIDE TO KEEP ON HIS PERSON TO ACCOMMODATE HIS DYSLEXIA IN EDUCATION AND IN ALL OTHER SETTINGS**

At this time, MCSP's education department does not have Guided Reading Strips accessible for inmates. To accommodate [REDACTED] a replica of a similar Guided Reading Strip device was made by a MCSP staff member. This is intended to provide [REDACTED] immediate accommodations. An acquisition order has been placed with the intent of procuring a product similar to the product referenced in the link in your letter and upon receipt of the ordered product, [REDACTED] will be issued a reading guide to keep on his person for use in education or any other setting that its use will provide benefit to him.

**II. ENSURE EDUCATION STAFF REQUEST ALL RELEVANT RECORDS SO [REDACTED]'S LEARNING DISABILITY CAN BE VERIFIED**

[REDACTED] contends having a verified dyslexic learning disability. In reviewing [REDACTED]'s educational case records in SOMS/ERMS, there was no documentation which verifies a learning disability. On May 10, 2023, [REDACTED] received a GED/HSD transcript request form for additional education records delineating and verifying his learning disability.

**CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDERS**

In providing this response, neither CCHCS nor CDCR accepts plaintiffs' representation of the facts set forth in the advocacy letter and only provides an answer to the questions asked.

██████████ - MCSP  
Page 2

In the interim, the education department issued ██████████ a 128-B chrono on May 25, 2023, to update ██████████'s educational case records to reflect accommodations and support to be successful in school. The accommodations for ██████████ are as follows: 1) Recommend student participate in tutoring. (It should be noted, he was assigned to the Peer Literacy Mentor Program on May 19, 2023), 2) Close proximity seating near the teacher to receive additional feedback and assistance, and 3) Provide additional time to complete class assignments. All of these accommodations have been clearly communicated to his current ABE II and PLMP teachers. On August 1, 2023, a request for ██████████'s education records was sent to the San Jose Unified School District in an effort to obtain documentation necessary to verify ██████████'s learning disability.

**III. ADD ██████████ TO THE RESOURCE SPECIALIST PROGRAM TEACHER CASELOAD FOR SO LONG AS HE REMAINS IN ABE CLASSES, GIVEN HIS DYSLEXIA AND RELATED ACCOMMODATION NEEDS**

Upon reviewing ██████████'s educational case records in SOMS/ERMS, ██████████ was assigned to the EOP Program on November 9, 2017, and received an Individually Tailored Education Plan to support and accommodate his academic learning. On February 1, 2022, the EOP Program was eliminated by the Office of Correctional Education. Currently, Creekside Adult School has a Resource Specialist whose inmate caseload is exclusively members of the Developmental Disability Program. In an effort to accommodate ██████████ effective August 1, 2023, MCSP's Resource Specialist has added ██████████ to her caseload and will provide pull-out services to assist with his dyslexia.

Please let me know if you have any questions.

Sincerely,

DocuSigned by:  
*Patrick Covello*  
A70E04B2730F4F5...

PATRICK COVELLO  
WARDEN

9/13/2023

# **EXHIBIT 10**



## PRISON LAW OFFICE

General Delivery, San Quentin, CA 94964  
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  
Rita Lomio

March 24, 2023

Dear Clark and All,

*Plata* counsel visited SATF on March 14-15, 2023, to assess medical care services at SATF. Our visit primarily focused on previously identified deficiencies and steps being taken to address those matters, including SATF's response to certain findings in the *Armstrong* Court Expert's report.

We first thank the SATF healthcare team for their assistance providing requested documents in advance of the visit, as well as healthcare and custody staff for organizing the virtual MAC interviews. We further thank SATF for their warm welcome, and their clear desire to share all the improvements and projects they have initiated thus far. While it is clear that significant steps have been taken, and that there are plans to roll out even more remedial measures such as the initiation of a wheelchair and eyeglass repair shop, we believe there remains much work to do. We describe our primary concerns below and encourage SATF and CCHCS to put in the necessary effort to remedy the deficiencies below, as well as to ensure the sustainability of the efforts already enacted.

### 1) Staffing

SATF is allocated a certain number of healthcare staff based upon the statewide acuity based staffing model. However, in response to many of the deficiencies raised by Plaintiffs and the *Armstrong* Court Expert, SATF is now utilizing additional staff beyond their allocations to ensure adequate care and medical services.<sup>1</sup> This includes staff used to implement new initiatives and remedial measures, but also staff used to catch and keep up with the chronic, heavy demand for healthcare services at the prison.

*PCP Staffing:* According to information provided by the CME during our visit, SATF is currently using three additional PCPs above their allocated positions – and has been for some time. In combination with their civil servant PCP positions, use of overtime, registry, and double appointment positions, the

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<sup>1</sup> We note that the Receiver and *Armstrong* Court Expert will need to work together to ensure appropriate staffing to meet the needs of the large and complex population currently housed at SATF. The *Armstrong* Court ordered the Court Expert to “analyze the adequacy of Defendants’ staffing with respect to positions that are intended to assist Defendants in complying with their obligations under the ADA and the [*Armstrong* Remedial Plan].” ECF No. 3467 at 3.

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CME reports that SATF is operating with more PCPs than allocated – something that he describes as necessary to keep up with patient demands.

*Nurse Staffing:* SATF is also utilizing additional registry RNs to meet basic access-to-care requirements, including to provide urgent care in the TTA, to schedule offsite specialty appointments,<sup>2</sup> and to assist the UM RN with her tasks. Without the latter, for instance, the single UM RN for SATF is unable to keep up with the high RFS numbers, as well as complete the daily out-to-hospital reports. At one point, according to the QM minutes, given the significant workload placed upon the UM nurse with the high number of RFS's submitted and the significant number of patients sent out to the hospital, it was taking her as long as 22 days to process an RFS. This is well beyond the timeframes called for by HCDOM 3.1.11 which allows five calendar days for high and medium priority RFSs and seven calendar day for routine RFSs.

SATF is currently using additional registry nursing staff to complete novel tasks. SATF leadership has recently begun a deep dive into offsite patient refusals after recognizing that the number of refusals was exceeding 15 percent of their scheduled encounters. We do not know how long the refusal rate has been so high, but we appreciate that a deep dive is now being taken. As part of their remedial response and in an attempt to counter the high refusal rate, SATF has recently dedicated two LVNs to offsite specialty to assist with offsite refusals and patient offsite preparations. According to SATF leadership, they have seen a reduction in patient refusals for offsite encounters in response to their efforts. SATF is also using four registry CNAs who are dedicated to the DME brown bag project – an initiative put in place to help remedy the serious deficiencies identified with the timely provision of incontinence supplies.

The SATF CNE hopes to also get additional nursing staff that she needs to deliver timely healthcare. Her requests have not yet been approved by Headquarters. First, the CNE reported she has submitted multiple requests to Headquarters for additional RN support on high demand yards such as D and E yard to assist with primary care RN functions. Without these positions, they are canvassing for RNs who are willing to pick up extra shifts during third watch – which also requires additional custody coverage. Second, the CNE reported requesting additional LVN assistance to run pill lines on specific yards to speed up the medication delivery process. For instance, during our site visit, we observed the 4pm pill line on D yard which was being run by a single LVN (the regular arrangement at that time). The patients in line waited up to 40 minutes to get their medications. A number of patients waiting in line were using wheelchairs or walkers and there was no shelter or protection from the rain. Patients reported even longer waits for the morning pill line

*Transportation Staff:* Additional staff was also being utilized by the offsite transport team. Once the Incident Command Post was established in late 2022 in response to the significant number of cancelled offsite appointments in the preceding years,<sup>3</sup> the offsite custody transportation team was given an additional ten unallocated transport officers to assist with offsite transfers. According to Lieutenant

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<sup>2</sup> It appears that keeping up with offsite scheduling demands is a problem that pre-dates the pandemic and thus additional temporary staff is just a bandaid. In February 2020, SATF's specialty care backlog rate (63.3) was more than double the statewide average (26.6). That was after months of focused efforts, which included the temporary assignment of additional staff, to reduce the specialty care backlog at that prison. See Letter from S. Hart re Plaintiffs' August 2019 SATF Site Visit (September 4, 2019). SATF's sustained challenges in timely scheduling specialty care appointments strongly suggests this additional staff is needed permanently.

<sup>3</sup> According to information received from CCHCS, transport has been an issue at SATF since August 2019.



██████ on many days, the ten additional positions are still not sufficient and additional re-directed officers are requested to assist with transports.

All of the additional team members – those being currently used and those requested – described above are not permanent positions and, based on information received during the site visit, there is no plan and/or timeframe in place to make them permanent. This is seriously problematic. The recent initiatives and improvements are largely, if not entirely, reliant on the extra staff. Failure to make additional staff permanent raises questions about the sustainability of SATF’s compliance efforts. Furthermore, the use of registry staff increases the probability that there will be staff turn-over, risking stalling or backsliding of initiatives and improvements, as well as repeated need for new staff onboarding and training.

## 2) Ducats and Refusals

CCHCS and CDCR policy requires that patients receive ducats in advance of their healthcare appointments; patients are then expected to report to the clinic at the time written on their ducat. Appointment refusals can be completed at the clinic. If the patient refuses to report to the clinic, healthcare staff should report to the patient’s housing unit and provide education about the healthcare risks associated with the refusal, and ensure the patient is knowingly refusing the appointment. *See* HC-DOM 3.1.5

That is not how the system is functioning at SATF. In October 2022, the CCHCS Field Operations Unit raised concerns about the distribution of ducats at SATF, as well as about other ducat practices there. *See* HCAU ROUND VIIIb Report (Oct. 14, 2022). Specifically, the auditors found that, among other things, a significant number of medical appointments occurred more than an hour after the ducated appointment time. The concerns remain as of our visit. Ducat times are not honored by SATF staff and patients can be called to the clinic hours before their scheduled appointment times. Clinic D and F HCAU officers we spoke to during the site visit candidly explained that appointment times are not based on what is said on the ducat but rather when the healthcare team is ready to see a patient, at which point they are called to the clinic. At that point, patients are given 15 minutes to report to the clinic for their appointment. If a patient does not report to the medical clinic at that time, medical staff do not consistently report to the patient’s housing unit to provide education about the refusal. Nevertheless, a patient can be (and, based on reports we heard from patients and officers on D yard, are currently) issued an RVR for refusing the appointment from custody staff.

For example, while onsite, the HCAU officer for D-yard provided information about a patient, Mr. ██████, ██████ who refused to report to the clinic the day prior. We visited his housing unit (D1) to speak to him about the alleged appointment refusal. Mr. ██████ explained – and this was confirmed by the regular building officer – that the process for medical appointments is as follows: the tower officer is called when the clinic is ready for a particular patient, at which time the patient’s door is popped open. The patient is expected to report to the clinic. If the patient does not, the tower officer indicates he writes their name down to issue an RVR. According to Mr. ██████ he did not feel well enough to walk to the clinic the day prior when he was called out. No member of the healthcare team reported to his unit to educate him about his refusal, as required by HC-DOM. This fact was confirmed by the regular housing officer who further stated that medical team members *never* come to the building to educate patients or get a refusal form signed (by contrast, he reported that dental staff always report to the building if a patient refuses). There is an unsigned refusal form in Mr. ██████’s chart for that particular 3/14/23 encounter. We are very concerned about whether the refusal form comports with CCHCS policy.

We saw time and time again refusal forms where there was apparently no healthcare contact made with a patient —instead, the refusal was reported to have been given via custody. *See, e.g.*, [REDACTED], [REDACTED] (2/28/23 unsigned refusal notes “per custody patient refused medical appointment”); [REDACTED], [REDACTED] (2/24/23 unsigned refusal notes “per custody patient refused medical appointment”); [REDACTED], [REDACTED] (2/16/23 unsigned refusal notes “per custody patient refused medical appointment”); [REDACTED], [REDACTED] (2/1/23 unsigned refusal notes that patient refused per custody). We also saw a number of charts where there is no refusal form at all, though the appointment was marked by medical staff as having been refused by the patient. *See, e.g.*, [REDACTED], [REDACTED] (no form for 1/24/23 orthotics appointment where patient reports he was not called by custody for the encounter; again, no form for 2/28/23 orthotics appointment); [REDACTED], [REDACTED] (no refusal form for 12/23/22 appointment).

This also seems to align with the singular refusal audit conducted by SATF staff in November 2022, where 31% of charts reviewed where refusals occurred did not contain the forms. During the entrance meeting, medical leadership acknowledged there is a problem with the refusal process at SATF, but stated they were focusing their initial corrective actions on addressing refusals for offsite specialty care appointments.<sup>4</sup>

SATF’s failure to address these concerns on a broader scale is problematic, particularly given the decision to continue to issue RVRs for patients who do not report to these ducats. Until SATF addresses these problems with the ducating and refusal processes, SATF should immediately stop issuing RVRs for failing to report to medical appointments. We ask that all RVRs issued from January 1, 2022, to the present for refusing to report for medical ducats be provided to Plaintiffs and reviewed by SATF leadership for appropriateness.

### 3) Tracking, Review, and Response to Pathology Reports

Chart reviews and discussion with staff at SATF made clear there is no reliable mechanism to track and follow up on pathology reports. Patients either have biopsies completed during offsite encounters, which typically means the results need to be forwarded to SATF when available, or have biopsies done onsite during specialty clinics or the procedure clinics, which are sent out via the lab at SATF, and then received from the lab. In both scenarios, the results should be timely received and reviewed by a medical provider so further steps, if necessary, may be taken. Patients should also be notified of the results, so they can self-advocate regarding their care, or be assured that a test result has been reviewed. There are problems with each piece of this process at SATF, putting patients at risk of harm.

First, pathology results are not always timely received. For patients who receive biopsies offsite, SATF has no reliable mechanism to track which patients’ results have been received, and which have not. Instead, the offsite RN scheduler is using a home-grown tracking method, involving hard copies of reports which are spotted as mentioning a biopsy being done. These reports are kept in a folder until the results are received, and then the report is removed from the pending folder. This method leaves much room for error. I asked about two patients who had biopsies done, and the nurse was not aware that of them, or that results were still pending. *See* [REDACTED], [REDACTED] (patient with elevated PSA who had biopsy done

<sup>4</sup> Those efforts began in November and, as described above, rely on the use of registry LVNs, whose positions are only temporary.

11/29/22 with no results as of 3/20/23); [REDACTED] [REDACTED] (patient with pending biopsy results from 12/8/22 and 1/20/23 dermatology visits).

Second, PCPs fail to identify that pathology results have been received, or fail to act when results are received. For instance, in the case of Mr. [REDACTED] [REDACTED] whose biopsy results received at SATF on 3/14/23 via the offsite RN showed a new diagnosis of small B cell lymphoma, the medical records show that the results were appropriately scanned into the chart on 3/14/23 and endorsed by the PCP the same day. However, as of 3/24/23, no action has been taken on the results. The patient has not been notified and there is no specialty or PCP appointment pending aside from a CCP appointment that is not due until 8/14/23. This raises questions about whether the PCP appropriately reviewed the report. In another case, Mr. [REDACTED] [REDACTED] had a colonoscopy completed on 1/26/23 and his biopsy was processed onsite via Quest, meaning the results were automatically delivered via CERNER. A PCP endorsed the results on 1/31/23. He was seen by his PCP for colonoscopy follow up on 2/7/23, at which time the PCP noted the results were pending – although they had been reviewed and endorsed on 1/31/23. There is no evidence to show the patient is aware of the results. *See also* Mr. [REDACTED] [REDACTED] (EGD done onsite on 1/26/23 and results endorsed by PCP 1/30/23; at follow-up on 2/7/23, PCP notes results are still pending); [REDACTED], [REDACTED] (1/26/23 colonoscopy results endorsed by PCP prior to 2/7/23 PCP encounter that notes results still pending; no indication patient notified of the results).

Third, patients are not reliably notified of pathology test results. For patients who have biopsies completed onsite, they are sent out to Quest via the SATF lab. A handwritten tracking log of all specimens that were sent out was shared with us onsite. In recent weeks, a number of specimens were sent out but when we reviewed those patient charts, we did not see the results or that they were shared with the patient. *See, e.g.*, [REDACTED], [REDACTED] (3/2/23 biopsy shows no patient notification); *see also* examples cited in the above paragraph.

#### **4) Lack of Proactivity Surrounding the Identification and Handling of Serious Patient Care Issues**

In the last year, we have brought to the attention of medical executives several patients who were experiencing serious medical care concerns via the Paragraph 7 process. Per the CME, who listed some of these patients by name in the entrance meeting, they are all now seen and followed by him. He knows these particular patients well and is confident that they are *now* being taken care of. This is great and the involvement of the CME is much appreciated by Plaintiffs and, we presume, by our clients.

However, this approach misses the mark in terms of the primary problem that caused the patients' care to fall to the wayside. It is the primary care team that works in the clinics that must embrace a new, more proactive approach that more focuses attention on the patients, including learning to better hear and recognize patient needs. Although the CME was asked about this, we did not hear or see a plan that would result in this happening.

While preparing for this visit and while onsite, we learned of two patients who were having problems functioning in their current housing units. One patient, Mr. [REDACTED], [REDACTED], was brought to our attention by the ADA representative for his yard, who reports raising the same concerns with staff in the past. Mr. [REDACTED] was reportedly having problems housing safely among his pod mates due to his "smelly" catheter. On 3/14/23, we notified custody and healthcare staff on his yard. We were told that steps would be taken to ensure his safety and – per the CEO – we were assured that this was definitely a

medical concern, *i.e.*, Mr. ██████ may require a reasonable accommodation to be safely housed. As of 3/24/23, there is nothing in his chart indicating that any evaluation has been done or steps taken to move him.

Another patient, Mr. ██████ ██████, arrived at SATF on 3/6/23 and thereafter submitted multiple sick call slips indicating he was having a hard time transferring and completing his ADLs in his current unit due to his MS. His first 7362 submitted 3/8/23 stated: “I need a handicap sleeping area and for bathroom because it is extremely hard for me. Being as this I can’t get out of bed hardly. I gotta sleep in my wheelchair...need bars around bed.” This was not treated urgently by the RN. Rather, on 3/9/23, it was noted that the patient would be seen by the PCP 3/13/23 for a new arrival encounter. The patient was seen 3/13/23 and his housing arrangements was not discussed. Instead, he was seen on 3/16/23 for this issue. The PCP noted “Due to difficulties performing adls MCC changed to CTC bed.” However, he was not moved at that time. He again submitted a sick-call slip stating “It’s so hard getting into bed and out of bed and dressing myself.” On 3/20/23, in response to the sick-call, the RN let Mr. ██████ know that his bed placement was pending. Mr. ██████ was fortunately moved to the CTC on 3/22/23 but it concerning that he raised concerns about the safety of his placement as soon as he arrived to SATF and those concerns were not responded to urgently.

Another patient with broken DME was brought to our attention by a MAC representative. Mr. ██████, ██████ submitted a sick-call slip on 1/20/23 reporting that the right cable on his walker was frayed. The sick-call slip was processed but went unanswered. He again submitted a sick-call slip on 3/3/23 reporting it was his second request for repairs on his walker. On 3/8/23, he was finally brought to the clinic to be provided a loaner walker. He declined the walker because it was too short for him. No further action was taken to obtain a walker that was suitable for his height. We reviewed this patient’s records with the yard SRN on 3/15/23; at that time, the CNE and CEO queried the SRN as to why the patient was not provided with a larger walker, which was readily available in the warehouse. The CEO asked that the patient be brought back to the clinic to get an appropriate walker. As of 3/24/23, there is no documentation in the chart indicating the patient was provided with a walker or that he is scheduled to be seen by medical for this concern.

SATF primary care teams need to be more proactive and more timely identify and act on particular patient needs. Among the possible reasons cited in the *Armstrong* Court Expert report for lack of staff responsiveness is staff burnout. According to the *Armstrong* Court Expert, “the first step in preventing professional burnout in healthcare professionals is to ensure that they are adequately supported in their work.” Furthermore, in order to counter staff burnout and support healthcare staff, it is necessary to ensure that there is adequate staff on each team to meet the demands placed by each particular yard – that concern is addressed in Section 1, above, under staffing.

In addition, SATF reports forming a workgroup comprised of different staff classifications that will work towards identifying what support and resources staff need to combat burnout, and the CEO reports that staff town halls will resume in June 2023. The CNE is also enacting measures to try to boost nursing morale. While these measures are welcome, they do not go towards addressing and mending the relationship between the patients and the healthcare team. According to the executive leadership, attempts to address the latter are in the works and, thus far, have consisted of executive team members meeting with the MACs, and walking the yard to talk to patients. This too is a good first step but does not address the line staff relationship with patients. And a similar system – including town halls, AOD tours, and meetings with MAC representatives – was in place under the previous CEO and warden since at least

2021 in response to concerns raised by Plaintiffs in *Plata* and *Armstrong* – this was not sufficient to remedy the problem.

This is a complex, longstanding issue that will require sustained attention from headquarters and regional staff. We understand that the Receiver and Secretary Macomber have discussed “culture issues” at SATF and plan to co-lead a “change effort.” See Declaration of Secretary Macomber, *Armstrong* ECF No. 3463-1 at 3 (“Addressing staff attitudes toward inmates with disabilities is an overarching issue that must be addressed with all staff at SATF be they custody, medical, or administrative.”). We are interested in learning more about those efforts and how they will incorporate best practices and proven methodologies to improve institutional culture. See *Plata* Tr. at 19-20 (Feb. 7, 2023) (Judge Tigar soliciting for information from “academics, former prison officials, and other persons” regarding “culture change”).

Similarly, just as it is reassuring to hear that the SRNs for each yard, as well as some executive leadership, meet with the MAC members in an attempt to address yard concerns, we believe this engagement should extend beyond that managerial staff and should be actively done by the primary care teams as well. The MAC representatives we spoke to found the regular meetings with the yard SRNs to be helpful and a good avenue to raise concerns they may have. We encourage SATF to explore ways to increase the engagement between the rest of the primary care team and the patients on the yard, possibly through townhalls or similar types of congregate settings. The latter may also assist in repairing some of the historical sentiments patients may have towards healthcare staff.

#### **5) August HFM Report and Follow-up**

When Plaintiffs first reviewed the August HFM report for SATF, we were deeply troubled by the findings. See CCHCS, Healthcare Facilities Maintenance Assessment results from the SATF, conducted on August 23 through August 26, 2022. The auditors identified serious and repeated concerns related to the cleanliness of clinic spaces throughout the facility – in some locations visibly observing urine and blood on clinic surfaces. The auditors further identified concerns related to infection control when testing random surfaces (ATP testing) in various clinic spaces.

During our entrance meeting, we discussed the August 2022 findings and remedial measures taken to address the deficiencies. The engagement with executive staff was unfortunately minimal – from the onset, the CEO was skeptical of the auditing mechanisms used by the HFM as they related to ATP testing. When Plaintiffs queried about the follow-up site visit by HFM that occurred in March 2023, the CEO indicated that they still found issues with the ATP testing – which he did not agree with – but that cleanliness was not an issue.

Soon after our site visit, on March 21, 2023, we received the HFM follow-up audit results, which remain concerning. See Special Review of Healthcare Facilities Maintenance at SATF conducted on March 10, 2023. In addition to very poor scores on the ATP testing, the report described continued concerns with clinic cleanliness. We are concerned that either SATF leadership did not think the cleanliness deficiencies warranted discussion during our site visit, or they were not aware of them despite the disturbing accounts raised in the first report. One would presume that extra attention would be placed on clinic cleanliness after the August 2022 findings; the deficiencies identified in March 2023 during the follow-up visit were concerns that developed over time, not things that would develop overnight. For example, the latter report notes that “While walking through the four areas, the assessment team found significant deficiencies associated with attention to detail, follow through, and overall cleanliness.



Namely, in the CTC there was excessive dust, dirt, and debris on and under patient beds, on floors, walls, and in corners. Several showers had mold and mildew and there was a foul odor in some cells. When patients in the CTC were asked how often HFM staff cleaned their cells, the patients indicated HFM is cleaning every two to three days which is a departure from the required daily cleaning. In the Facility H clinic, multiple offices and exam spaces had excessive dust build up, spiderwebs, and debris on the floor.”

#### 6) Healthcare’s Role in the RVR process

The issue of healthcare staff issuing inappropriate RVRs at SATF has been a primary concern of our office in recent years, and was cited by the *Armstrong* Court in ordering the Court Expert to assess conditions at SATF. (See *Armstrong v. Newsom*, ECF No. 3338 at 2-3 (directing the Court Expert to investigate “why four nurses are responsible for seventy-five percent of all RVRs issued this year by medical staff at SATF and whether those RVRs were properly issued; whether it is the case that medical leadership was unaware of any RVRs being issued by medical staff before being informed by Plaintiffs’ counsel, and, if so, why they were not”).)

In response, CDCR and CCHCS voided 20 of the 61 RVRs issued by nurses at SATF between January 1, 2021, and August 17, 2021. CCHCS in recent months also provided healthcare staff training meant to clarify their role in the disciplinary process – which, in short, states that healthcare staff do not issue RVRs and can document certain types of *serious* behaviors (violent or serious threats) via an incident report. Other types of alleged misbehaviors can be verbally reported to healthcare supervisors or custody if necessary.

During our site visit, we were deeply disappointed to learn that SATF has done no follow-up aside from that training and still has no tracking mechanism in place to determine whether that training was successful. Prior to our site visit, we requested “[a]ll RVRs issued and/or initiated by any member of the healthcare staff, including healthcare access unit custody staff, since June 1, 2022 to present.” In response, we were informed by counsel for CDCR that CDCR lacked a system to identify RVRs issued by medical staff. During the entrance meeting, the CNE indicated that no RVRs had been written by Healthcare staff, and that Healthcare does not track RVRs or any submissions of incident reports or chronos by Healthcare staff that may then become RVRs.

In response our request, CDCR OLA *did* identify some RVRs issued directly by Healthcare staff. Although we have yet to receive copies of those RVR, we learned that an RVR was recently written by an RN who had completed the training. Medical executives were not aware of the RVR from January 2023 until we brought it to their attention. The CEO then spoke to the RN, and reported that she indicated she meant to write a “counseling chrono 128B,” which he seemed to accept as a valid explanation. This is troubling and this explanation does not make sense. A 128B and a counseling chrono are two very different documents. A 128B is an information chrono that resides in SOMS. A counseling only chrono is what used to be known as a 128A; it is a disciplinary document that no longer exists, and has been replaced by a Counseling Only RVR in SOMS. It is difficult to understand how these two documents could be confused, particularly when there is no longer any such thing as a counseling chrono, and because the Counseling Only RVR requires staff to identify a disciplinary charge – which the RN in this incident documented as “threatening staff.” Furthermore, this same RN wrote another RVR, which was later voided. Her supervising SRN was not aware of the RVRs until after they had been submitted, which is also contrary to the direction provided in the training.



Without requiring a healthcare chain of command for disciplinary processes, including the writing of incident reports or informational chronos which can become RVRs, how will SATF medical executive staff ever know if the training was effective or if policy is being followed?

Furthermore, we are concerned that the spirit of the training was not understood by medical staff at SATF, including leadership. The training directed healthcare staff to be thoughtful – to question whether a behavior in the free community would warrant a crime or a call to the police. If not, then the behavior should not be referred to custody staff. This did not seem to register. The CEO offered an example of when an RN may write an informational chrono about a patient to refer their behavior to custody – per the CEO’s example, if a patient tells an RN “I love you” five times in row, the RN may be uncomfortable and thus document it in a chrono, which could be used by custody to issue an RVR. This seems to be in stark contrast to the spirit and message of the Healthcare RVR training. Such behavior must be addressed, but RVRs are not the place to do so.

## 7) Reconciliation Process

Plaintiffs raised concerns regarding incomplete reconciliations for new arrivals and higher level of care returns through the Paragraph 7 process multiple times in the last year. In response, deficiencies were identified and we were told training would be provided to the involved PCP. However, SATF did not conduct any audits or deeper dive to assess the magnitude of the reconciliation problem until January 19, 2023.<sup>5</sup>

We also have concerns about the efficacy of this audit. Although the Healthcare reconciliation processes are now being audited, it is unclear if there is a plan to identify the underlying cause of the failures and to put a plan in place to fix it. A Nurse Practitioner at SATF has been tasked with reviewing all new arrivals to determine if reconciliation was completed appropriately. If it has not, he reports he will remedy it and notify the assigned PCP. While this is a good first step, a deeper dive needs to be done regarding why reconciliation orders continue to fall through the cracks. When the audit began in January 2023, reconciliation failures were identified on the first day of the audit. Failures to reconcile continue to be identified even in March. Ultimately, the goal should be to use the audit to identify the root cause of the deficiency so that a plan of action to remedy the failures can be made.

Finally, we are concerned that patients who are being audited are still falling through the cracks. *See, e.g.*, ██████████ ██████████ (arrived 3/8/23, initial history completed 3/13/23 but his pending orthopedic specialty appointment was not reconciled or addressed as of 3/24/23); *see also* ██████████ ██████████ (arrived 3/1/23 and was ordered an interfacility visit with his PCP within 30 days; initial visit order was discontinued by his PCP on 3/7/23 without an indication why; furthermore, his urology order was initially reconciled, then also discontinued on 3/7/23 with no explanation; patient has no PCP appointment pending as of 3/21/23). These recent patients who fell through the cracks demonstrate that the auditing process, also designed to catch patients before they fall through the cracks, may need to be revamped to better to capture and remedy errors before they result in patient harm.

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<sup>5</sup> Prior to that time, in response to the *Armstrong* Court Expert’s findings in late 2022, SATF did begin a DME reconciliation audit – but it did not include an assessment of whether other medically necessary reconciliations were being completed appropriately such as medical encounters, medication, and specialty referrals.

We again thank SATF medical leadership for their willingness to engage and we look forward to returning to SATF to see the improvements that are put into place in the coming months.

Sincerely,

*Rana Anabtawi*

# **EXHIBIT 11**



# CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

## MEMORANDUM

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**Date:** October 14, 2022

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**To:** MATTHEW ATCHLEY, Associate Director  
Division of Adult Institutions  
California Department of Corrections and Rehabilitation

CHRIS PODRATZ, Regional Health Care Executive  
Health Care Operations, Region III  
California Correctional Health Care Services

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**From:**

DocuSigned by:

**Joseph (Jason) Williams**

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JOSEPH (JASON) WILLIAMS

Deputy Director

Field Operations

Corrections Services

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**Subject: REFERRAL FOR DIVISION AND REGION LEVEL OF REVIEW: HEALTH CARE ACCESS UNIT OPERATIONS MONITORING AUDIT AT SUBSTANCE ABUSE TREATMENT FACILITY**

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The California Correctional Health Care Services (CCHCS) and the Receiver's Office are in the process of transitioning control of health care management and oversight back to California Department of Corrections and Rehabilitation (CDCR). At this juncture, it is imperative for institution managers to achieve and sustain acceptable custody operations standards for health care access.

Attached is the report for the Substance Abuse Treatment Facility (SATF), Round VIIIb, Health Care Access Unit Operations Monitoring Audit dated October 13, 2022. The report examines SATF's ability to resolve critical issues from previous audits and sustain compliance. SATF has struggled with the following unresolved critical issues for two or more audits:

- R8b.1.05 (formerly R7.1.04) – Does custody and nursing staff ensure the patient's keep-on-person medication are provided to him/her when placed in restricted housing unit?
- R8b.3.05 (formerly R7.6.03) – Are Emergency Medical Response Bags complete per the institution's inventory standard?
- R8b.5.08 (formerly R7.2.16) – Does custody staff ensure patients appear for priority ducats no earlier than 60 minutes before the scheduled priority ducat time?
- R8b.5.09 (formerly R7.2.20) – Does custody staff ensure patients complete priority ducats no later than 60 minutes after the scheduled priority ducat time?
- R8b.5.10 (formerly R7.4.03) – Are patients who are referred for mental health crisis bed placement to an alternate institution transferred and housed within 24 hours of referral?

Based on the audit results for SATF, the attached audit report is referred to the Associate Director and Regional Health Care Executive for a division/region level review. A cooperative effort between custody and health care staff is required to resolve the identified deficiencies.

# MEMORANDUM

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Page 2 of 4

Please do not hesitate to call me at (916) 753-6806 if you have any questions.

## Attachments

cc: Tammy Foss, Director, Corrections Services, CCHCS  
Joseph Bick, M.D., Director, Health Care Services, CCHCS  
Connie Gipson, Director, Division of Adult Institutions, CDCR





# CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

## MEMORANDUM

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**Date:** October 14, 2022

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**To:** THERESA CISNEROS, Warden (A)  
Substance Abuse Treatment Facility  
California Department of Corrections and Rehabilitation

ANU BANERJEE, Chief Executive Officer  
Substance Abuse Treatment Facility  
California Correctional Health Care Services

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**From:**

DocuSigned by:

**Joseph (Jason) Williams**

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JOSEPH (JASON) WILLIAMS

Deputy Director

Field Operations

Corrections Services

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**Subject:** FINDINGS OF THE HEALTH CARE ACCESS UNIT OPERATIONS MONITORING AUDIT AT  
SUBSTANCE ABUSE TREATMENT FACILITY – ROUND VIIIb

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California Correctional Health Care Services (CCHCS) staff from Field Operations, Corrections Services, completed the Round VIIIb Health Care Access Unit (HCAU) Operations Monitoring Audit at Substance Abuse Treatment Facility (SATF) between September 12 through 15, 2022. The purpose of this audit is to ensure the HCAU at SATF continues to meet the performance targets set forth in the *Delegation of Authority from the Receiver to the Secretary of the California Department of Corrections and Rehabilitation [CDCR] Related to Health Care Access Units*, dated October 26, 2012.

Attached is the report of audit findings. SATF achieved an overall compliance rating of **91.2%**, a decline of 5.3 percentage points from the previous August 2019 Round VII audit score of 96.5%. There are five critical issues where the institution has not been able to meet the minimum compliance threshold:

- R8b.1.05 (formerly R7.1.04) – Does custody and nursing staff ensure the patient’s keep-on-person medication are provided to him/her when placed in restricted housing unit?
- R8b.3.05 (formerly R7.6.03) – Are Emergency Medical Response Bags complete per the institution’s inventory standard?
- R8b.5.08 (formerly R7.2.16) – Does custody staff ensure patients appear for priority ducats no earlier than 60 minutes before the scheduled priority ducat time?
- R8b.5.09 (formerly R7.2.20) – Does custody staff ensure patients complete priority ducats no later than 60 minutes after the scheduled priority ducat time?
- R8b.5.10 (formerly R7.4.03) – Are patients who are referred for mental health crisis bed placement to an alternate institution transferred and housed within 24 hours of referral?

Theresa Cisneros, Warden  
Anu Banerjee, Chief Executive Officer

Page 4 of 4

# MEMORANDUM

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Thank you for your assistance and please extend my gratitude to your staff for their professionalism and cooperation during this audit. If you have any questions or concerns, you may contact Dawn Lorey, Correctional Administrator, Field Operations, Corrections Services, at (916) 385-1509 or via email at [Dawn.Lorey@cdcr.ca.gov](mailto:Dawn.Lorey@cdcr.ca.gov).

## Attachment

cc: Tammy Foss, Director, Corrections Services, CCHCS  
Chris Podratz, Regional Health Care Executive, Health Care Operations, Region III, CCHCS  
Barbara Barney-Knox, Deputy Director, Statewide Chief Nurse Executive, Nursing Services, CCHCS  
Matthew Atchley, Associate Director, High Security Males, Division of Adult Institutions, CDCR  
Dawn Lorey, Correctional Administrator, Field Operations, Corrections Services, CCHCS



# CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

## HEALTH CARE ACCESS UNIT OPERATIONS MONITORING AUDIT

Round VIIIb (Annual Audit)



## SUBSTANCE ABUSE TREATMENT FACILITY

Audit Date: September 12 – 15, 2022

Final Report:  
October 14, 2022

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**EXECUTIVE SUMMARY**

From September 12 through 15, 2022, an audit team from the Field Operations Unit conducted a Round VIIIb Operations Monitoring Audit (OMA) at Substance Abuse Treatment Facility (SATF). The document review period for this audit is August 2021 through July 2022. Based on the quantitative portion of this audit, SATF achieved an overall compliance rating of **91.2%**. Comparatively speaking, during the previous Round VII audit conducted August 12 through 15, 2019 the overall compliance rating was **96.5%**, indicating a decline of **5.3** percentage points.

The table below illustrates the compliance rating by component and the overall compliance rating achieved during the Round VIIIb audit:

Round VIIIb Quantitative Analysis Rollup	Points Standard	Points Applicable	Points Awarded	Compliance Percentage	Total Significant Findings	Total Critical Issues
Component 1: Access to Medication	510.0	420.0	391.7	93.3%	0	3
Component 2: Access to Health Care	760.0	760.0	695.0	91.5%	0	3
Component 3: Medical Emergencies / Use of Force / Post Orders	720.0	660.0	645.2	97.8%	1	1
Component 4: Access to Mental Health Care	430.0	360.0	325.7	90.5%	N/A	3
Component 5: Health Care Data	280.0	260.0	181.4	69.8%	0	4
Component 6: Environment of Care / Health Care Access Unit Staffing	90.0	90.0	87.3	97.0%	1	0
<b>Overall Quantitative Results</b>	<b>2,790.0</b>	<b>2,550.0</b>	<b>2,326.4</b>	<b>91.2%</b>	<b>2</b>	<b>14</b>

Critical issues are those quantitative questions that fail to meet the compliance threshold as described in the methodology, as well as any qualitative critical issues identified by the audit team that may have the potential to adversely affect access to health care services. The table below reflects nine new critical issues identified during the Round VIIIb audit and six unresolved critical issues from prior audits:

**Critical Issues – Substance Abuse Treatment Facility**

- |    |   |   |
|----|---|---|
| 1. | Question R8b.1.05<br>(formerly R7.1.04) | Does custody and nursing staff ensure the patient's keep-on-person medication are provided to him/her when placed in restricted housing unit?<br><b><i>This is an unresolved critical issue from the Round VII audit.</i></b> |
| 2. | Question R8b.1.06                       | Is custody staff effectively monitoring direct observation therapy medication distribution?<br><b><i>This is a new critical issue.</i></b>  |
| 3. | Question R8b.1.07                       | Is custody staff observing patients dispose of contaminated insulin needles and syringes in secure sharps container?<br><b><i>This is a new critical issue.</i></b>   |



4.	Question R8b.2.06	In general population housing units under lockdown or modified program, are nursing rounds and collection of the CDCR Forms 7362, Health Care Services Request, documented in the housing unit logbook(s)? <b><i>This is a new critical issue.</i></b>
5.	Question R8b.2.15	Does custody staff deliver all priority ducats to patients prior to their scheduled health care appointments? <b><i>This is a new critical issue.</i></b>
6.	Question R8b.2.23	When a patient is placed into a restricted housing unit, does custody staff ensure the patient's approved durable medical equipment and medical supplies are in their possession? <b><i>This is a new critical issue.</i></b>
7.	Question R8b.3.05 (formerly R7.6.03)	Are Emergency Medical Response Bags complete per the institution's inventory standard? <b><i>This is an unresolved critical issue from the Round VI audit.</i></b>
8.	Question R8b4.02	Have all custody staff successfully completed suicide prevention and response training? <b><i>This is a new critical issue.</i></b>
9.	Question R8b.4.03	When a patient is discharged from a mental health crisis bed or temporary alternative housing to a general population housing unit, does custody staff conduct and document custody checks of the patient per the mental health clinician's instructions? <b><i>This is a new critical issue.</i></b>
10.	Question R8b.4.06	Does each housing unit possess a complete suicide cut-down kit? <b><i>This is a new critical issue.</i></b>
11.	Question R8b.5.06	Has the institution satisfied the requirements of the October 26, 2012 Delegation with regard to changes to Health Care Access Unit staffing? <b><i>This question was not rated and remains an unresolved critical issue from the Round V audit.</i></b>
12.	Question R8b.5.07	Did the institution achieve the performance target of 99.00% for Custody Access to Care Success Rate? <b><i>This is a new critical issue.</i></b>
13.	Question R8b.5.08 (formerly R7.2.16)	Does custody staff ensure patients appear for priority ducats no earlier than 60 minutes before the scheduled priority ducat time? <b><i>This is an unresolved critical issue from the Round V audit.</i></b>
14.	Question R8b.5.09 (formerly R7.2.20)	Does custody staff ensure patients complete priority ducats no later than 60 minutes after the scheduled priority ducat time? <b><i>This is an unresolved critical issue from the Round VI audit.</i></b>
15.	Question R8b.5.10 (formerly R7.4.03)	Are patients who are referred for mental health crisis bed placement to an alternate institution transferred and housed within 24 hours of referral? <b><i>This is an unresolved critical issue from the Round VII audit.</i></b>

SATF has struggled with the following unresolved critical issues for at least two or more audits:

Critical Issues	Round VI Limited Review Audit	Round VII Audit	Round VIIIb Audit
<b>Question R8b.1.05</b> (formerly R7.1.04)	-	83.3%	60.0%
<b>Question R8b.3.05</b> (formerly R7.6.03)	N/A	84.6%	63.6%
<b>Question R8b.5.08</b> (formerly R7.2.16)	0.0%	84.4%	79.1%
<b>Question R8b.5.09</b> (formerly R7.2.20)	44.0%	85.6%	72.8%
<b>Question R8b.5.10</b> (formerly R7.4.03)	100.0%	94.4%	93.0%

Based on the Round VIIIb OMA findings, and after consultation with the Director of Corrections Services, the audit team recommends the findings of this audit be referred to the Associate Director, Division of Adult Institutions; and the Regional Health Care Executive, Health Care Operations, for a division and region level review.




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## PURPOSE

The Health Care Access Unit (HCAU) Operations Monitoring Audit (OMA) was developed by the California Correctional Health Care Services (CCHCS) to measure the effectiveness, efficiency, and consistency in facilitating patient access to health care. The OMA is the CCHCS tool used to conduct audits of health care operations and patient access to health care at each institution of the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Institutions (DAI), and to measure the institutions' success at achieving and sustaining performance targets as set forth in the *Delegation of Authority from the Receiver to the Secretary of the [CDCR] Related to the [HCAUs]*, dated October 26, 2012 (Delegation).

## INTRODUCTION

From September 12 through 15, 2022, an audit team from the Field Operations Unit conducted a Round VIIIb OMA at Substance Abuse Treatment Facility (SATF). The Round VIIIb audit team consisted of the following personnel:

 Correctional Administrator, Retired Annuitant (RA), Team Lead  
Captain, RA  
 Captain, RA  
Correctional Administrator, RA  
Captain  
, Nurse Consultant Program Review (NCPR), RA  
NCPR

The document review period for this audit is August 2021 through July 2022.

## METHODOLOGY

This methodology is designed to promote transparency as well as inter-rater reliability and cross-institution consistency. The audit focuses on HCAU performance during the designated review period for the audit.

The OMA consists of both quantitative and qualitative analyses. The **quantitative analysis** provides a way of representing institution operations mathematically, involving a prescribed methodology. This takes the form of staff interviews with a limited set of pre-determined potential outcomes, document review with clear delineation of criteria being sought and measured, and process observation with a specific target interest identified. Ultimately, the quantitative approach results in a compliance percentage, based on the outcomes of the data collected that can be measured over time to show trends. The quantitative portion of the OMA is organized into six major operational components.

A **qualitative analysis** by its very nature examines factors that defy quantification, and focuses on processes instead of outcomes. The objectives of this approach are to: 1) gain an understanding of underlying reasons and motivations; 2) provide insight into the setting of a problem, generating ideas and/or hypotheses for later quantitative research; and 3) to uncover prevalent trends in thought and opinion. This approach relies on subjective judgment, such as management expertise, process efficacy, and interdepartmental support. The purpose of a qualitative review is to help understand and decipher the relative functional "health" of the system. A qualitative review is flexible and evolving, even during the brief window of the audit itself.

### The Scoring System

Certain requirements inherently carry a greater risk of negative outcome than others, in the event of non-compliance. The OMA factors such requirements more heavily into a determination of compliance than those that carry a lower risk. To accomplish this, each *quantitative* question is assigned a specific point value, ranging from 10 to 70 points. The point value assigned to each question is based on two variables: *risk of non-compliance to patient health* and *risk of non-compliance to ensuring access to care*. This is illustrated in the “Risk Matrix” below:

		Risk Matrix			
		Risk to Patient Health			
		Minimal	Moderate	High	Critical
Risk to Ensuring Access	Minimal	10	20	30	40
	Moderate	20	30	40	50
	High	30	40	50	60
	Critical	40	50	60	70

For questions that are not applicable to the institution being audited, the available points associated with those questions will be subtracted from the applicable points for the component. A brief explanation will be provided in the report as to why the question was deemed not applicable.

### Determining and Calculating Compliance

Questions in the OMA are rated based on individual question performance. Questions that fail to meet the 90.0% and above compliance thresholds will be identified as a **critical issue**. Questions that fail to meet the 85.0% compliance threshold will be noted as a **significant finding**, which are not direct patient safety or access to care concerns.

Question Point Value	Compliance Threshold	Result of Failure
60 - 70	100%	Critical Issue
40 - 50	95.0%	Critical Issue
20 - 30	90.0%	Critical Issue
10	85.0%	Significant Finding

Critical issues and significant findings may also be identified through the qualitative review process (addressed in the *Qualitative Analysis* section). All critical issues and significant findings will be clearly identified and explained in the CCHCS Field Operations’ final report, which is completed and published within 30 days of the audit.

A compliance percentage is assigned to each question based on the data gathered during the audit. The weighted point value for a given question is multiplied by the percentage of compliance to yield the total points awarded. Percentages and final scores for each question are rounded to the nearest tenth. The scores are then totaled for each component, divided by the total applicable points for the component, and multiplied by 100 to yield an overall percentage. The final overall *quantitative* score is calculated by the same method.

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### *Audit Frequency*

The OMA schedule is performance-driven. To maximize effectiveness at identifying issues and supporting institutions toward compliance, full audits will be conducted at each institution at least once every two years, provided the overall OMA score is 85 percent or greater and each individual component is also 85 percent or greater.

- **November 2021 to November 2022 (Round VIIIb Full Audit Cycle)** – Conduct a full audit at each institution.
  
- **January 2023 to December 2023 (Round VIIIb Focused Review Audit Cycle)** – Conduct a “Focused Review,” or another full audit if deemed necessary, if the overall OMA score or individual component scores during the full audit is below 85 percent, or the combination of critical issues at the institution warrants such a review, as determined by the Deputy Director of Corrections Services.
  - A **Focused Review** includes a team of subject matter experts from Field Operations, Division of Adult Institutions, and Mental Health. The review consists of a document review, process assessment, and recommendations to the hiring authorities to facilitate resolution of identified critical issues. The hiring authority shall work collaboratively to implement agreed upon recommendations to immediately improve deficiencies. Recommendations may include proven methods, training, and revisions to regulations and/or policy memoranda.

Unresolved critical issues will be submitted for inclusion in the *Tri-Annual Report of the Federal Receiver’s Turnaround Plan of Action*.



**QUANTITATIVE FINDINGS - DETAILED BY COMPONENT***Component 1: Access to Medication*

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.1.01	Does custody staff provide the nursing staff a copy of the IPTR149, Pending Bed Assignments, or IPTR150, Internal Transfers, reports from the Strategic Offender Management System, prior to physically moving a patient whose bed change will result in a change of medication administration location?	30.0	30.0	100.0%
R8b.1.02	Does nursing or custody staff keep a signed copy of the IPTR149, Pending Bed Assignments, or IPTR150, Internal Transfers, reports from the Strategic Offender Management System, on file after the patient movement has been completed?	10.0	10.0	100.0%
R8b.1.03	Does custody staff physically move the patient's medication package to the location serving the patient's new housing unit?	50.0	49.4	98.8%
R8b.1.04	Does the custody staff ensure the patient retains his/her keep-on-person medications in his/her possession when their bed assignment changes?	50.0	49.2	98.5%
R8b.1.05	Does custody and nursing staff ensure the patient's keep-on-person medications are provided to him/her when placed in restricted housing units?	50.0	30.0	60.0%
R8b.1.06	Is custody staff effectively monitoring direct observation therapy medication distribution?	20.0	16.7	83.3%
R8b.1.07	Is custody staff observing patients dispose of contaminated insulin needles and syringes in secure sharps containers?	50.0	46.4	92.9%
R8b.1.08	Is the institution distributing medication from the designed locations consistent with the most current CCHCS and CDCR policy?	30.0	30.0	100.0%
R8b.1.09	Do diabetic patients have access to food within 30 minutes of receiving their insulin treatment?	60.0	60.0	100.0%
R8b.1.10	Does custody staff ensure keep-on-person medications are not packed with the patient's personal property when being transferred to another institution?	50.0	50.0	100.0%
R8b.1.11	Does custody staff allow patients to keep nitroglycerin tablets, glucose tablets/gel, and inhalers on their person during transports?	N/A	N/A	N/A
R8b.1.12	Does custody staff escort patients receiving injections to the appropriate location?	N/A	N/A	N/A
R8b.1.13	Does custody staff accompany health care staff while medications are being distributed at cell front and open the patient's cell door or security port to facilitate medication distribution?	20.0	20.0	100.0%
<b>Component 1 Totals:</b>		<b>420.0</b>	<b>391.7</b>	<b>93.3%</b>

**Component 1 Significant Findings**

There are no significant findings in Component 1.

Component 1 Critical Issues

1. Question R8b.1.05 – The compliance threshold for this question is 95.0%. The audit team reviewed ten patients moved from the general population to Short Term Restricted Housing (STRH) unit. Of the ten patients prescribed keep-on-person (KOP) medications, six had their KOP medication in possession at the time of arrival. Compliance is rated at 60.0%. The four non-compliant cases are as follows:
  - Patient transferred from building D-1 on September 7, 2022, without KOP medication.
  - Patient transferred from building C-4 on September 8, 2022, without KOP medication.
  - Patient transferred from building C-3 on September 8, 2022, without KOP medication.
  - Patient transferred from building B-2 on September 9, 2022, without KOP medication.
  
2. Question R8b.1.06 – The compliance threshold for this question is 90.0%. The audit team observed 24 direct observation therapy (DOT) medication distributions, and staff effectively monitored the distribution in 20 of the 24 locations. Compliance is rated at 83.3%. The following four locations did not have a clear line of sight for staff to observe patients receiving DOT medication:
  - Facility D during the noon medication distribution on September 13, 2022.
  - Facility E during the AM medication distribution on September 14, 2022.
  - Facility E during the PM medication distribution on September 13, 2022.
  - Building F3 during the noon medication distribution on September 13, 2022.
  
3. Question R8b.1.07 – The compliance threshold for this question is 95.0%. The audit team observed 14 insulin administrations, and in 13 locations, staff observed patients dispose of the needle and syringe into a sharps container. Compliance is rated at 92.9%. The one non-compliant location was
  - PM insulin Administration on Facility C. The licensed vocational nurse (LVN) did not have a sharps container for disposing of the syringe and was observed collecting the syringe onto a tray for later disposal.

Component 1 Not Rated

Question R8b.1.11 was not rated, as no patients transferred during the week of the audit were prescribed nitroglycerin, glucose tablets/gel, or inhalers.

Question R8b.1.12 was not rated, as there were no patients receiving injections in the STRH unit during the week of the audit.

*Component 2: Access to Health Care*

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.2.01	Are the Health Care Department Operations Manual and local operational procedures readily accessible to all Health Care Access Unit staff?	10.0	10.0	100.0%
R8b.2.02	Do Health Care Access Unit staff know where and how to access the Health Care Department Operations Manual and local operational procedures?	10.0	9.6	95.6%
R8b.2.03	Does the Health Care Access Unit Associate Warden attend quality management committee meetings?	10.0	9.2	91.7%

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.2.04	Are CDCR Forms 7362, Health Care Services Request, readily accessible to patients in all general population housing units and clinics?	30.0	30.0	100.0%
R8b.2.05	Are CDCR Forms 7362, Health Care Services Request, available to patients in restricted housing units?	30.0	30.0	100.0%
R8b.2.06	In general population housing units under lockdown or modified program, are nursing rounds and collection of the CDCR Forms 7362, Health Care Services Request, documented in the housing unit logbook(s)?	30.0	1.3	4.4%
R8b.2.07	Is access to health care specifically addressed on the Program Status Report to permit continued access to health care during institution/facility lockdown, modified program, or state of emergency?	60.0	60.0	100.0%
R8b.2.08	During lockdown(s) or modified program(s) at the time of the audit, did institutional staff follow specific instructions contained in the Program Status Reports regarding access to health care?	60.0	60.0	100.0%
R8b.2.09	Are nursing rounds and collection of CDCR Forms 7362, Health Care Services Request, documented in the CDC Form 114, Isolation Log?	30.0	30.0	100.0%
R8b.2.10	Are CDCR Forms 1824, Reasonable Accommodation Request, readily accessible to patients in all general population housing units?	30.0	30.0	100.0%
R8b.2.11	Are CDCR Forms 1824, Reasonable Accommodation Request, available to patients in restricted housing units?	30.0	30.0	100.0%
R8b.2.12	Are CDCR Forms 602 HC, Health Care Grievance, readily accessible to patients in all general population housing units and clinics?	30.0	30.0	100.0%
R8b.2.13	Are CDCR Forms 602 HC, Health Care Grievance, available to patients in all restricted housing units?	30.0	30.0	100.0%
R8b.2.14	Does the institution's ducat procedure allow health care schedulers to schedule appointments up to the daily 1400 hour cutoff time, print ducats after 1400 hours, and specify the delivery method of priority health care ducats to each patient?	50.0	50.0	100.0%
R8b.2.15	Does custody staff deliver all priority health care ducats to patients prior to their scheduled health care appointments?	50.0	21.0	42.0%
R8b.2.16	Does the institution produce the Master Pass List for the next day's appointments after 1400 hours?	30.0	30.0	100.0%
R8b.2.17	When a priority ducat is not completed due to a custody reason, was there an emergency prohibiting access to health care?	30.0	29.9	99.5%
R8b.2.18	Does Health Care Access Unit custody staff respond correctly when a patient fails to appear for a scheduled health care appointment?	30.0	29.6	98.8%
R8b.2.19	Does custody staff initiate progressive discipline when patients refuse to report to the ducated location for a medical or dental appointment?	10.0	9.8	98.0%

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.2.20	Does custody and health care staff correctly respond to patients who refuse to report for an examination/treatment?	40.0	39.7	99.2%
R8b.2.21	When a patient returns to the institution from a specialty provider, does custody staff ensure the specialty consult report is returned to the correct location and health care staff?	20.0	20.0	100.0%
R8b.2.22	When a patient is returned to the institution from a health care appointment or hospital discharge, does custody staff ensure the patient is screened by a registered nurse prior to re-housing?	40.0	40.0	100.0%
R8b.2.23	When the patient is placed into a restricted housing unit, does custody staff ensure the patient's approved durable medical equipment and medical supplies are in their possession?	30.0	25.0	83.3%
R8b.2.24	When a patient arrives in Receiving and Release in preparation for transport, does institution custody staff ensure all durable medical equipment is in the patient's possession?	30.0	30.0	100.0%
R8b.2.25	Are Health Care Access Unit officers documenting patients' arrival to and departure from health care appointments in real time?	10.0	10.0	100.0%
<b>Component 2 Totals:</b>		<b>760.0</b>	<b>695.0</b>	<b>91.5%</b>

### Component 2 Significant Findings

There are no significant findings in Component 2.

### Component 2 Critical Issues

1. Question R8b.2.06 – The compliance threshold for this question is 90.0%. There were five Program Status Reports (PSR) reviewed, and one met the requirement of conducting nursing rounds and collecting the CDCR Forms 7362, Health Care Services Request. Based on a review of 364 required entries in the general population units under lockdown or modified program, nursing rounds and the collection of CDCR Forms 7362, Health Care Service Request, were documented in the housing unit logbooks on 16 occasions. Compliance is rated at 4.4%. The following is a breakdown of the 16 compliant entries that were noted on C4 and C5, and the 348 occasions where the required documentation was not found:

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- A 1 – 0/14
- A2 – 0/14
- A3 – 0/14
- B1 – 0/14
- B2 – 0/14
- B3 – 0/14
- C3 – 0/14
- C4 – 9/14 (May 16, 19, 20, 22-24, 26,27, 29, 2022)
- C5 – 7/14 (May 16, 18,19, 23-25, 27, 2022)
- C6 – 0/14

- C8 – 0/14
  - D1 – 0/14
  - D2 – 0/14
  - D3 – 0/14
  - D4 – 0/14
  - D5 – 0/14
  - E1 – 0/14
  - E3 – 0/14
  - E4 – 0/14
  - E5 – 0/14
  - F1 – 0/14
  - F2 – 0/14
  - F3 – 0/14
  - G1 – 0/14
  - G2 – 0/14
  - G3 – 0/14
2. Question R8b.2.15 – The compliance threshold for this question is 95.0%. The audit team reviewed 495 priority medical ducats for September 14, 2022, and 208 ducats were delivered to patients prior to their scheduled health care appointment. Compliance is rated at 42.0%. Auditors were unable to verify the delivery of ducats on facilities A and B, housing units F3, G1, and G3. SATF’s local operating procedure (LOP) requires patients to sign for ducats on the Housing Unit Accountability Ducat Sheets provided by the Inmate Assignment Office. A review of the ducat sheets in each housing unit were not completed per the procedure. In addition, auditors observed Pride workers (“Gold Coats”) issuing the ducats in certain housing units.
3. Question R8b.2.23 – The compliance threshold for this question is 90.0%. Six patients who were prescribed Durable Medical Equipment (DME) transferred to STRH, and five patients had their DME and medical supplies in their possession upon placement. Compliance is rated at 83.3%. The one non-compliant case is as follows:
- Patient transfer from C4 to STRH on September 8, 2022, was not in possession of shoes/orthotics.

Component 2 Not Rated

N/A

*Component 3: Medical Emergencies / Use of Force / Post Orders*

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.3.01	Have designated custody staff completed annual alarm response training?	N/A	N/A	N/A



Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.3.02	Does the local operational procedure for medical emergency response require custody staff to notify health care staff without unreasonable delay and summon assistance expeditiously in the event of an urgent or emergent health care need?	60.0	60.0	100.0%
R8b.3.03	Does the local operational procedure for medical emergency response contain instructions addressing communication, response, and transportation during medical emergencies?	60.0	60.0	100.0%
R8b.3.04	Have designated custody staff successfully completed a course in cardiopulmonary resuscitation, consistent with the American Heart Association guidelines, within the previous two years?	60.0	60.0	100.0%
R8b.3.05	Are the Emergency Medical Response Bags complete per the institution's inventory standards?	30.0	19.1	63.6%
R8b.3.06	Are emergency medical response drills conducted, at a minimum, once per quarter per watch, and include participation of health care and custody staff?	30.0	30.0	100.0%
R8b.3.07	Does the institution hold a monthly emergency medical response review committee meeting?	10.0	10.0	100.0%
R8b.3.08	Does the Warden or designee attend the emergency medical response review committee meeting?	10.0	10.0	100.0%
R8b.3.09	During a controlled use of force, did the incident commander ensure a licensed health care staff member was physically present at the time and place of the incident?	70.0	70.0	100.0%
R8b.3.10	During incidents involving the controlled application of oleoresin capsicum, did the incident commander take into account the findings of the clinician's evaluation of risks to the patient, prior to the use of oleoresin capsicum?	70.0	70.0	100.0%
R8b.3.11	Did the incident commander allow for a cool down period and clinical intervention preceding the controlled use of force?	70.0	70.0	100.0%
R8b.3.12	Does custody staff provide health care staff the opportunity to conduct medical evaluations for all patients involved in incidents having to do with an assault, cell extraction, or use of force?	70.0	70.0	100.0%
R8b.3.13	Are medical evaluations conducted for all patients involved in fights or assaults not resulting in an Incident Report?	30.0	30.0	100.0%
R8b.3.14	Do all staff know they can initiate a 9-1-1 call for emergency medical services in the event of a medical emergency?	60.0	60.0	100.0%
R8b.3.15	Is a current copy of each Health Care Access Unit post order physically present at each job site?	10.0	6.2	61.5%
R8b.3.16	For each Health Care Access Unit custody post inspected, has the person on duty at the time of the audit signed their CDC 1860, Post Order Acknowledgment?	20.0	20.0	100.0%
<b>Component 3 Totals:</b>		<b>660.0</b>	<b>645.2</b>	<b>97.8%</b>

### Component 3 Significant Findings

- Question R8b.3.15 – The compliance threshold for this question is 85.0%. Of the 13 HCAU post locations inspected, eight locations had current post orders. Compliance is rated at 61.5%. The five second watch non-compliant areas are as follows:
  - Facility E Enhanced Outpatient Program (EOP) – two escort post orders not current.

- Facility F EOP – two escort post orders not current.
- Facility G EOP – two escort post orders not current.
- Correctional Treatment Center (CTC)/Central Health Building (CHB) – one HCAU lieutenant and four HCAU sergeant post orders not current; one HCAU sergeant post order was missing and had the wrong post number.
- Transportation unit – two transportation sergeant positions, 18 officers, and 15 temporary positions not current; one sergeant position had wrong post number.

### Component 3 Critical Issues

2. Question R8b.3.05 – The compliance threshold for this question is 90.0%. The audit team inspected 11 Emergency Medical Response (EMR) bags, and seven were found to comply with the institution’s inventory standard. Compliance is rated at 63.6%. The four non-compliant EMR bags and locations are as follows:
- C Yard – contained nonfunctioning flashlight
  - STRH – missing an infection control kit
  - E Yard – missing one lancet
  - F Yard – contained 11 alcohol prep pads and several gauze

### Component 3 Not Rated

Questions R8b.3.01 was not rated, as annual alarm response training was not a mandatory training requirement during the review period due to the COVID-19 pandemic.

### *Component 4: Access to Mental Health Care*

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.4.01	Is a morning “check-in” meeting held each day between the Administrative Segregation Unit supervisor and mental health staff?	30.0	30.0	100.0%
R8b.4.02	Have all custody staff successfully completed suicide prevention and response training?	60.0	59.10	98.5%
R8b.4.03	When a patient is discharged from a mental health crisis bed or temporary alternative housing to a general population housing unit, does custody staff conduct and document custody checks of the patient per the mental health clinician’s instructions?	70.0	56.0	80.0%
R8b.4.04	Upon discharge, does custody and mental health staff complete all required fields for all documents associated with mental health crisis bed or temporary alternative housing Discharge Custody Checks completely?	20.0	18.0	90.0%
R8b.4.05	When a patient is discharged from a mental health crisis bed or temporary alternative housing to a segregated housing unit, does custody staff conduct security/welfare checks utilizing the Guard One System?	N/A	N/A	N/A
R8b.4.06	Does each housing unit possess a complete suicide cut-down kit?	70.0	54.4	77.8%
R8b.4.07	Are the suicide cut-down kits properly inventoried during each shift?	50.0	48.2	96.4%

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.4.08	Upon completion of a court appearance, does custody staff present the patient to a registered nurse for evaluation/screening prior to re-housing?	60.0	60.0	100.0%
<b>Component 4 Totals:</b>		<b>360.0</b>	<b>325.7</b>	<b>90.5%</b>

### Component 4 Significant Findings

There are no significant findings in Component 4.

### Component 4 Critical Issues

- Question R8b.4.02 – The compliance threshold for this question is 100.0%. Documentation provided by the institution indicates 995 of the 1,010 custody staff successfully completed suicide prevention and response training during the review period. Compliance is rated at 98.5%. The 15 custody staff who did not complete the annual training requirement include 13 officers and 2 sergeants.
- Question R8b.4.03 – The compliance threshold for this question is 100.0%. The audit team reviewed ten discharges from a mental health crisis bed (MHCB) or temporary alternative housing to a general population housing unit, and in eight cases, custody staff conducted and documented the security checks per the mental health clinician's instructions. Compliance is rated at 80.0%. The two non-compliant cases are as follows:
  - Patient #5 – custody staff failed to document the security check at 1500 hours on September 21, 2022.
  - Patient #6 – custody staff failed to document the security check at 1500 hours on September 21, 2022.
- Question R8b.4.06 – The compliance threshold for this question is 100.0%. The audit team inspected 27 housing units, and 21 were found to have suicide cut-down kits that were complete and in proper working order. Compliance is rated at 77.8%. The six non-compliant housing units are as follows:
  - Building F1 – no CPR mask
  - Building D4 – CPR mask non-functioning
  - Building E5 – CPR mask non-functioning
  - Building G1 – CPR mask non-functioning
  - Building G2 – CPR mask non-functioning
  - Building G3 – CPR mask non-functioning

### Component 4 Not Rated

Question R8b.4.05 was not rated, as there were no patients discharged from a MHCB or temporary alternative housing unit to a segregated housing unit within the review period.

**Component 5: Health Care Data**

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.5.01	Does the institution accurately report the daily number of patients escorted or transported to the triage and treatment area for urgent/emergent services?	10.0	10.0	100.0%
R8b.5.02	Does the institution accurately report the daily number of emergent transports?	10.0	9.6	96.3%
R8b.5.03	Does the institution accurately report the daily number of urgent transports?	10.0	10.0	100.0%
R8b.5.04	Does the institution accurately report the daily number of state vehicle transports?	10.0	10.0	100.0%
R8b.5.05	Does the institution accurately report the number of vacant Health Care Access Unit posts for transportation, medical guarding, and all other health care access posts?	10.0	9.6	96.4%
R8b.5.06	Has the institution satisfied the requirements of the October 26, 2012 Delegation with regard to changes to Health Care Access Unit staffing?	N/A	N/A	N/A
R8b.5.07	Did the institution achieve the performance target of 99.00% for the Custody Access to Care Success Rate?	60.0	0.0	0.0%
R8b.5.08	Does custody staff ensure patients appear for priority ducats no earlier than 60 minutes before the scheduled priority ducat time?	30.0	23.7	79.1%
R8b.5.09	Does custody staff ensure patients complete priority ducats no later than 60 minutes after the scheduled priority ducat time?	30.0	21.9	72.8%
R8b.5.10	Are patients who are referred for mental health crisis bed placement to an alternate institution transferred and housed within 24 hours of referral?	40.0	37.2	93.0%
R8b.5.11	For patients referred to a mental health crisis bed and internally admitted, are those patients placed within 24 hours of referral?	40.0	39.8	99.5%
R8b.5.12	Do Correctional Counselors attend scheduled Interdisciplinary Treatment Team committee meetings?	10.0	9.6	95.5%
<b>Component 5 Totals:</b>		<b>260.0</b>	<b>181.4</b>	<b>69.8%</b>

**Component 5 Significant Findings**

There are no significant findings in Component 5.

**Component 5 Critical Issues**

1. Question R8b.5.07 – The compliance threshold for this question is 100.0%. The October 26, 2012, *Delegation of Authority* from the Receiver requires institutions to maintain a 99.0% or better standard for the Custody Access to Care Success Rate. During the review period, SATF's overall average Custody Access to Care Success Rate was 98.14%. This is primarily due to incomplete ducats for Mental Health Services.
2. Question R8b.5.08 – The compliance threshold for this question is 90.0%. The audit team reviewed 63,305 appointments (excluding mental health and off-sites) in the Strategic Offender Management System (SOMS) Health Care Access (HCA) application in all facilities at SATF during the review period. There were a total of 50,077 appointments where patients appeared for priority ducats no earlier than 60 minutes before the scheduled priority ducat time. Compliance is rated at 79.1%. There were

13,228 appointments where patients appeared for priority ducats more than 60 minutes before the scheduled priority ducat time, ranging from 1 hour, 1 minute to 11 hours, 39 minutes.

3. Question R8b.5.09 – The compliance threshold for this question is 90.0%. The audit team reviewed 63,305 appointments (excluding mental health and off-sites) in the SOMS HCA application in all facilities at SATF during the review period. There were a total of 46,116 appointments where patients completed priority ducats no later than 60 minutes after the scheduled priority ducat time. Compliance is rated at 72.8%. There were 17,189 patients who completed priority ducats more than 60 minutes after the scheduled priority time, ranging from 1 hour, 1 minute to 12 hours, 50 minutes.
4. Question R8b.5.10 – The compliance threshold for this question is 95.0%. There were 71 patients referred for MHCB placement, and 66 patients transferred to an alternate institution for MHCB placement and housed within 24 hours of referral during the review period. Compliance is rated at 93.0%. Five patients fell outside the 24-hour standard with one due to institutional delay and four due to lack of bed availability and institutional delay.

### Component 5 Not Rated

Question R8b.5.06 was not rated, as there were no HCAU staffing changes during the review period. However, this was a critical issue from the Round V audit and will remain unresolved until rated.

### *Component 6: Environment of Care / Health Care Access Unit Staffing*

Question #	Question Text	Point Value	Points Awarded	Compliance %
R8b.6.01	In health care clinics, are doors that provide a security barrier closed and locked when unattended?	10.0	10.0	100.0%
R8b.6.02	Are medical appointments conducted confidentially?	10.0	10.0	100.0%
R8b.6.03	In patient treatment spaces, is the area free of staff beverages, food, and personal belongings?	10.0	9.3	92.9%
R8b.6.04	Does the institution have manual, alcohol-based, and functional hand sanitizers installed in specified locations?	10.0	8.0	80.0%
R8b.6.05	Do the Health Care Access Unit clinic officer hours align with clinical operations?	20.0	20.0	100.0%
R8b.6.06	Does the duty statement for the Health Care Access Unit Associate Warden, or that of the Health Care Access Unit Correctional Captain, indicate that the position will report indirectly to the Chief Executive Officer?	10.0	10.0	100.0%
R8b.6.07	Is the Chief Executive Officer included in the hiring and/or assignment of Health Care Access Unit Associate Warden and Captain?	20.0	20.0	100.0%
<b>Component 6 Totals:</b>		<b>90.0</b>	<b>87.3</b>	<b>97.0%</b>

### Component 6 Significant Findings

1. Question R86.04 – The compliance threshold for this question is 85.0%. The audit team inspected ten clinics, and eight clinics had manual, alcohol-based, and functioning hand sanitizers installed at specific locations. Compliance is rated at 80.0%. The two non-compliant areas are as follows:



- Facility D Clinic – New Health Care Facility Improvement Program (HCFIP) addition had one hand sanitizer in the hallway and not in the individual treatment rooms.
- Facility E Clinic – New HCFIP addition had one hand sanitizer in the hallway and not in the individual treatment rooms.

#### Component 6 Critical Issues

There are no critical issues in Component 6.

#### Component 6 Not Rated

N/A

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## QUALITATIVE FINDINGS

A *qualitative* analysis is included to identify and isolate the cause(s) of any non-compliance issues, data validity concerns, potential barriers to care, organizational inefficiencies, or other discrepancies that have the potential to impact the performance of the institution's health care services staff. This section of the review is not scored with a compliance rating. Instead, this section of the report will speak to the collective cohesiveness of HCAU procedures, processes, management, leadership, staff, and day-to-day operations.

The qualitative components of the OMA are as follows:

1. Auditor's Observation of Health Care Operations
2. Formal Staff Interviews
3. Health Care Access Unit Staffing Utilization Review
4. Patient and Inmate Advisory Council Interviews
5. Health Care Transportation
6. Qualitative Summary

### *Audit Team's Observation of Health Care Operations*

The audit team toured the facilities and observed various components of health care operations. The team's observations are detailed below, including concerns and proven practices.

#### Staffing

Overall, health care and custody staff were observed to work well together throughout the various clinics and CHB/CTC. The biggest challenge is the limited number of transportation staff currently assigned at SATF. The Division of Adult Institutions, Program Support Unit reduced the transportation staffing in fiscal year 2014-2015. Prior to the reduction of the CDCR population, SATF had a total of 32 transportation officers assigned within the unit, but after the reduction, staffing was reduced to 18 officers. This significant reduction, along with off-site specialty providers not seeing CDCR patients due to COVID-19, has resulted in a significant backlog of off-site appointments. Additional custody coverage is a daily requirement to meet the demands of the off-site appointments.

Although there is sufficient custody staff assigned to the clinics and CTC, there continues to be vacancies within the medical and mental health department. Executive staff indicate there are approximately 36 LVNs, 20 psychologists, 17.5 registered nurses, 6 certified nursing assistant, 4 psychiatric technicians, 2 primary care providers (PCP), two supervising registered nurse IIs, and 2 medical assistants vacancies. SATF is utilizing Registry when possible in addition to conducting job fairs in an effort to alleviate the vacancies.

#### Clinic Operations/Ducats

Patients receive their ducats the night before scheduled appointments. SATF's LOP requires patients to sign for their ducats the night before; however, the institution struggles with staff accounting for the delivery of medical ducats. During the review, the Inmate Advisory Council (IAC) indicated ducats are issued the evening before the scheduled appointment, delivered by "Gold Coat" workers during third watch. The audit team observed this process and a review of the Master Pass List Housing Unit Roster confirmed this process in some of the buildings.

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### Medication Distribution

Staff were not consistently monitoring the delivery of medication on all facilities. There were four locations where staff did not have a clear sight of the medication being distributed.

### Scheduling

The office technician assigned to off-site scheduling has been in the position for approximately four months. There has been at least three different schedulers assigned to the unit within the past year. The scheduler specified there is currently a backlog of 308 appointments. There are several factors attributed to the high volume of backlog appointments. The most significant factor is the lack of transportation staff assigned to the unit. During interviews, it was reported that a PCP informed staff the scheduler will continue to schedule 20-25 appointments per day, and if appointments are not completed, then it is due to custody reasons. Staff indicated the appointment schedule can reasonably accommodate 12-15 off-site specialty appointments daily. The off-site scheduler also shared with the auditors an appointments scheduler's report that was created to detail appointments that are scheduled a minimum of ten days in advance, which would be beneficial to custody and health care.

### Disciplinary Process

A review of the Rules Violation Reports (RVR) issued by SATF to patients who fail to respond to calls and passes during the review period identified six custody staff members who have submitted a total of 54 RVR reports. One staff member on Facility F was asked if he issued RVR reports for patients refusing to report to their scheduled appointment and his reply to auditors was, "They don't report to me." This issue was shared with the HCAU Associate Warden and immediately corrected.

### Security Precautions

No significant issues observed at the time of the audit.

### Policies and Procedures

There are two procedures SATF should review. First, the LOP relating to ducats needs to be revised. The procedure indicates staff have patients sign for ducats when issued; however, it does not specify where the Housing Unit Roster sheets need to be maintained, or if a supervisor is required to review these tracking sheets. Currently, some officers maintain these records on a clipboard and auditors were unable to verify if the ducats were delivered in other housing units. These documents should be reviewed by the first line supervisors on a daily basis, and then forwarded to a location decided by the hiring authority.

The second LOP which requires revision is regarding the lack of staff documenting nursing rounds and collection of the CDCR Forms 7362, Health Care Service Request, during modified program, as directed by the PSR. This information was discussed during the interview with the chief nurse executive as well as executive staff during the exit interview. It was also noted there are no secured locked boxes for patients to place their CDCR Forms 7362, Health Care Service Request, when requesting an appointment. Currently, patients submit their request and place them in the box located outside the facility clinic.

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## Training

No significant issues observed at the time of the audit.

## Observed Communication between Health Care and Custody Staff

The observed communication between custody and health care staff was excellent. The medical staff spoke highly of the HCAU Associate Warden and HCAU Captain. Staff assigned to the clinic were engaged with the medical staff and were working in tandem together.

## Health Care Transportation

Prior to the reduction in the CDCR population, SATF transportation team had a total of 32 officers assigned to the unit. Currently, there are 18 officers assigned to the unit. The significant reduction in transportation staff has resulted in off-site medical appointments being cancelled. Efforts are made by the scheduling team to ensure the CDC Forms 7252, Request for Authorization of Temporary Removal for Medical Treatment, are processed at least a week in advance; however, there are times the Associate Warden is signing these forms at close of business the day before the appointment. During the audit, the scheduler provided the appointments for the next ten days to ensure custody coverage can be staffed in advance, as opposed to waiting to hire the additional staff the night before during third or first watch. Additionally, Bargaining Unit 6 at SATF have filed grievances regarding who is eligible to be redirected to the transportation unit. Staff interviewed also stated all of the transportation posts are post and bid. There are management positions where supervisors are able to assign transportation staff who would benefit the unit. In addition, because no transportation staff are certified with a Class B license, transporting more than one patient requiring an Americans with Disabilities Act (ADA) vehicle is a barrier. Staff have indicated training is being provided to acquire drivers with Class B certification.

A review of the Access Quality Report (AQR) cover memoranda submitted by SATF during the review period reflect several of the off-site specialty appointments were cancelled due to lack of staff and lack of vehicles.

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*Formal Staff Interviews*

At SATF, the personnel interviewed included the following:

S. Smith – Warden (A)

G. Garcia – Chief Executive Officer (A)

[REDACTED] – Chief of Mental Health Services

[REDACTED] – Chief Medical Executive

[REDACTED] – Chief Physician and Surgeon (A)

[REDACTED] – Chief Support Executive (A)

[REDACTED] – Chief Nurse Executive

[REDACTED] – Supervising Dentist

[REDACTED] – Health Program Manager III, Dental Services

J. Orique – HCAU Associate Warden

[REDACTED] – HCAU Captain

[REDACTED] – HCAU Lieutenant

[REDACTED] – Transportation Sergeant

[REDACTED] – HCAU Sergeant

[REDACTED] – HCAU Sergeant

[REDACTED] – Fleet Services representative

[REDACTED] – HCAU Analyst

[REDACTED] – Prison Industries Authority Manager

[REDACTED] – On-Site Specialty Care Scheduler

[REDACTED] – Off-Site Specialty Care Scheduler

The expressed and observed relationship between custody and health care staff at various levels was excellent. Staff state the relationship between the Warden (A) and CEO (A) is the best it has been in a while. The Warden (A) and CEO (A) work together to accomplish the health care mission despite the challenges SATF has faced during the past year. The COVID-19 pandemic along with staff vacancies within all departments has resulted in a backlog of appointments for PCP (177), off-site (308), and on-site optometry (169) appointments. Regardless of the challenges, staff continue to remain positive and communicate with one another as issues arise. In addition, SATF nursing staff and PCPs are scheduling appointments on weekends to reduce the appointment backlog.



*Health Care Access Unit Staffing Utilization Review*

The following table is based on data provided by the institution in their monthly AQR for the months noted, and originates from CDCR's time and shift system, WorkForce TeleStaff. The total budgeted posts and vacant posts are averaged for each day of the week and by watch for the date range noted.

<b>SATF Health Care Access Unit Staffing Utilization Rollup August 2021 through July 2022</b>								
		<b>Mon</b>	<b>Tues</b>	<b>Weds</b>	<b>Thurs</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
1/W	Average Budgeted Posts	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>
	Average Posts Not Covered	0	0	0	0	0	0	0
2/W	Average Budgeted Posts	<b>70</b>	<b>70</b>	<b>70</b>	<b>70</b>	<b>70</b>	<b>20</b>	<b>20</b>
	Average Posts Not Covered	5	2	1	1	3	0	0
3/W	Average Budgeted Posts	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>20</b>	<b>20</b>
	Average Posts Not Covered	0	0	0	0	0	0	0
<b>Total Average Budgeted Posts</b>		<b>95</b>	<b>95</b>	<b>95</b>	<b>95</b>	<b>95</b>	<b>43</b>	<b>43</b>
<b>Total Average Posts Not Covered</b>		<b>5</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>0</b>
<b>Average HCAU Vacancy Rate</b>		<b>5.3%</b>	<b>2.1%</b>	<b>1.1%</b>	<b>1.1%</b>	<b>3.2%</b>	<b>0.0%</b>	<b>0.0%</b>

### *Patient and Inmate Advisory Council Interviews*

The intent of this portion of the audit is to elicit substantive responses from the patient population by using each question as a springboard for discussion with appropriate follow up to identify any areas where barriers to health care access may potentially exist. In general population facilities, this is accomplished via interview of the IAC executive body. In segregated or reception facilities, this is accomplished via interview of a random sampling of at least three percent of the population in those buildings. Audit team members attempted to determine whether any claim of a negative nature could be supported by material data or observation.

#### **Patient Questions**

1. What is your experience with the health care system here at this institution?
2. When do you receive your ducats for scheduled appointments?
3. How long does it take to be seen for an appointment when you submit a CDC Form 7362, Health Care Services Request?
4. If you have been transported to an off-site location, have you experienced any complications with state vehicles?
5. Are there any delays or problems being released for a priority ducat?
6. Have you been housed in ASU at this institution? If so, were your KOP and/or DME brought to ASU, and provided to you upon being housed?
7. Are you released for your ducated health care appointment at the scheduled time?
8. In the event of inclement weather during pill line, what is the process you follow?
9. How long do you typically wait in the pill line to receive medication?
10. If you are close custody, do you have access to the HS medication pill line?
11. Are you receiving refills for your prescription medications?
12. What is the process when you wish to refuse a health care appointment?
13. Have you ever missed a health care appointment (other than if you refused)?
14. Do you receive medication during modified program? If so, are you escorted for ducated health care appointments during the modified program?
15. Have you been issued a DME? If so, if your DME needed to be repaired, do you know the process to request services?
16. When issued DME, how long did it take to receive it?
17. Do you receive medical supplies? If so, how?

#### **IAC Questions**

18. How often do you meet with the Warden and CEO?
19. When do you meet? Who do you typically meet with? Is health care staff involved in the meetings?
20. Were the issues you brought to executive staff addressed?

### Interview Comments

IAC members from Facilities A-G and randomly selected patients from each of the facilities were interviewed. All facilities indicated they meet with the Warden and CEO on a quarterly basis and with the facility captains at least monthly to address concerns from the patient population.

Overall, the patient population is satisfied with the health care they receive at the institution. The IAC on Facility A indicated custody and health care staff respond and react promptly to medical emergencies. The IAC on Facilities E-G indicated there are delays for patients who have issues with their wheelchair

repairs. Their complaint is associated with the time it takes for repairs to be completed. Patients on Facilities F and G said they usually do not sign for their ducats and they receive their ducats from the “Gold Coats” which are the ADA patient workers. Additionally, information was received that ducats in E4 are passed out by housing unit porters. Patients did say they receive their ducats on third watch the night prior to their appointment and are passed out to them by correctional officers in all other housing units not identified.

Interviews with IAC throughout the institution indicate once a CDCR Form 7362, Health Care Services Request, is submitted, it is addressed and typically scheduled within one or two days; however, there is a significant backlog of nursing and PCP appointments. The IAC mentioned that at times “sick call” slips to dental services are not completed in a timely manner. It was also stated that many patients throughout the institution refuse dental appointments because they do not want to be COVID-tested and possibly placed on quarantine. Patients on all yards, through interviews as well as reviewer’s observation, show patients do not wait an unreasonable amount of time to be seen while waiting in clinic holding areas. Patients interviewed said they did not have any problem receiving their medication refills.

Overall, the IAC and the patient population indicated they are satisfied their needs are being addressed when meeting with executive staff. All IACs said they would like to be better informed when changes occur in the Roadmap to Reopening phases under COVID protocols.

### Health Care Access Vehicles

The definition of a health care access vehicle is “any vehicle that is used to transport inmate-patients or supplies that predominately supports medical, dental, and mental health services and activities.”

During the Round VIIIb audit period, auditors reviewed SATF’s health care access vehicles as included in the Systems, Applications, and Products (SAP) inventory within the Business Information System (BIS). The institution was provided a list of their health care access vehicles at the time of the OMA notice. Institutions are instructed to reconcile the list against their physical inventory and to correct any discrepancies in the BIS SAP inventory before the on-site audit. SATF updated BIS to reflect the same number of health care access vehicles in their physical inventory. Therefore, the table below reflects SATF’s health care access vehicles:

Vehicle Type	Number of Vehicles	Operational Vehicles	Redlined Vehicles
Sedans	5	5	0
Passenger Vans	17	14	3
Para-Transit Buses	7	5	2
Americans with Disabilities Act Vans	5	4	1
Sport Utility Vehicles (SUV)	1	1	0
<b>TOTALS</b>	<b>35</b>	<b>29</b>	<b>6</b>

- Has the institution ever used an ambulance for non-emergency transport to a medical appointment during this rating period? If so, how many times?
  - There are currently three patients who require transport via ambulance for off-site appointments based on medical needs.*
- Have any off-site medical appointments been cancelled as a result of lack of transportation vehicles during this rating period? If so, please list how many.
  - Yes, at least five occasions.*
- Have any off-site medical appointments been cancelled as a result of lack of transportation staff during this rating period? If so, please list how many.
  - Yes, at least 15 occasions where off-site appointments have been cancelled due to lack of staff.*
- Are you limited in the number of scheduled appointments due to availability of vehicles (i.e., we can only schedule ten appointments on Thursday because it is a scheduled court day and there is no staff available)?
  - At one time, 20-25 appointments were scheduled daily; however, during the past few weeks, the numbers reduced to 12-15 scheduled appointments per day. A majority of the off-site appointments are scheduled on Thursdays, which is also the busiest day for court appointments.*

---

*Qualitative Summary*

Based on the audit team’s overall qualitative assessment, there are no new qualitative critical issues to report.

During the Round VII audit, the audit team identified one qualitative critical issue:

1. R7.Q1 – The health care access transportation fleet does not reconcile with the Systems, Applications, and Products (SAP) inventory within the Business Information System (BIS).

During the Round VIIIb audit, SATF was able to reconcile and accurately report their HCAU vehicle inventory fleet. This qualitative critical issue is now resolved.

**CRITICAL ISSUE RESOLUTION**

During the Round VII audit, SATF received an overall rating of 96.5% compliance, resulting in a total of 17 critical issues. The Round VIIIb audit results show 11 of those critical issues were resolved, and six remain unresolved. The critical issues identified in the Round VII were as follows:

Round VII Question #	Round VII Question Text	Round VII Compliance	Round VIIIb Question #	Round VIIIb Compliance	Status
R7.1.01 (formerly 1.1)	Does custody staff provide the nursing staff a copy of the IPTR149, Pending Bed Assignments, or IPTR150, Internal Transfers, reports from the Strategic Offender Management System, prior to physically moving a patient whose bed change will result in a change of medication administration location?	64.3%	R8b.1.01	100.0%	Resolved
R7.1.02 (formerly 1.2)	Does custody staff physically move the patient's medication package to the location serving the patient's new housing unit?	91.2%	R8b.1.03	98.8%	Resolved
R7.1.04 (formerly 1.4)	Does custody and nursing staff ensure the patient's keep-on-person medications are provided to him/her when placed in the Administrative Segregation Unit?	83.3%	R8b.1.05	60.0%	Unresolved since the Round VII audit.
R7.2.04 (formerly 2.4)	Are CDC Forms 7362, Health Care Services Request, readily accessible to patients in all general population housing units and clinics?	94.9%	R8b.2.04	100.0%	Resolved
R7.2.09 (formerly 2.13)	Are nursing rounds and collection of CDC Forms 7362, Health Care Services Request, documented in the CDC-114, Isolation Logbook?	93.3%	R8b.2.09	100.0%	Resolved
R7.2.16 (formerly 2.18)	Does custody staff ensure that patients arrive at the appointment location at the scheduled time of the health care appointment?	84.4%	R8b.5.08	79.1%	Unresolved since the Round V audit.



Round VII Question #	Round VII Question Text	Round VII Compliance	Round VIIIb Question #	Round VIIIb Compliance	Status
R7.2.20 (formerly 2.20)	Are patients seen by a provider within 90 minutes of their scheduled priority ducat time?	85.6%	R8b.5.09	72.8%	<b>Unresolved</b> since the Round VI audit.
R7.4.03 (formerly 4.3)	Are patients who are referred for mental health crisis bed placement to an alternate institution transferred and housed within 24 hours of referral?	94.4%	R8b.5.10	93.0%	<b>Unresolved</b> since the Round VII audit.
R7.4.05	Are patients who are internally admitted for mental health crisis bed rehoused within two hours of bed assignment by the Health Care Placement Oversight Program?	66.2%	N/A	N/A	<b>Resolved</b> This question is no longer rated.
R7.4.07	Upon discharge, does custody and mental health staff complete all required fields for all documents associated with mental health crisis bed or temporary alternative housing Discharge Custody Checks completely?	80.0%	R8b.4.04	90.0%	<b>Resolved</b>
R7.5.06 (formerly 2.6)	Has the institution satisfied the requirements of the October 26, 2012, Delegation with regard to changes to Health Care Access Unit staffing?	N/A	R8b.5.06	N/A	<b>Unresolved</b> since the Round V audit.
R7.6.03 (formerly 6.3)	Are the Emergency Medical Response Bags complete per inventory standards?	84.6%	R8b.3.05	63.6%	<b>Unresolved</b> since the Round VI audit.
R7.6.04 (formerly 6.4)	Are medical appointments being conducted in a confidential patient/provider manner while addressing security concerns?	80.0%	R8b.6.02	100.0%	<b>Resolved</b>
R7.6.05 (formerly 6.5)	Are health care clinics uncluttered and cleaning chemicals properly stored?	84.6%	N/A	N/A	<b>Resolved</b> This question is no longer rated.

Round VII Question #	Round VII Question Text	Round VII Compliance	Round VIIIb Question #	Round VIIIb Compliance	Status
R7.6.07 (formerly 6.7)	In patient treatment spaces, is the furniture in the treatment area authorized (non-porous material) and in good repair, clean, no tears, or missing parts?	48.6%	N/A	N/A	<b>Resolved</b> This question is no longer rated.
R7.6.08 (formerly 6.8)	In health care clinics, are the doors, counters, ceilings, and walls in good condition?	46.2%	N/A	N/A	<b>Resolved</b> This question is no longer rated.
Qualitative R7.Q1	The health care access transportation fleet does not reconcile with the Systems, Applications, and Products inventory within the Business Information System.	-	-	-	<b>Resolved</b>

## CONCLUSION

All of the critical issues identified in the Round VIIIb audit were discussed in their entirety at the exit interview. The Warden (A), CEO (A), and executive staff were receptive and supportive of the findings and have already initiated steps to overcome several of the identified critical issues prior to the audit team leaving the institution.

SATF has struggled with the following unresolved critical issues for at least two or more audits:

Critical Issues	Round VI Limited Review Audit	Round VII Audit	Round VIIIb Audit
<b>Question R8b.1.05</b> (formerly R7.1.04)	-	83.3%	60.0%
<b>Question R8b.3.05</b> (formerly R7.6.03)	N/A	84.6%	63.6%
<b>Question R8b.5.08</b> (formerly R7.2.16))	0.0%	84.4%	79.1%
<b>Question R8b.5.09</b> (formerly R7.2.20)	44.0%	85.6%	72.8%
<b>Question R8b.5.10</b> (formerly R7.4.03)	100.0%	94.4%	93.0%

Based on the Round VIIIb OMA findings, and after consultation with the Director of Corrections Services, the audit team recommends the findings of this audit be referred to the Associate Director, Division of Adult Institutions; and the Regional Health Care Executive, Health Care Operations, for a division and region level review.

**APPENDIX: 12-MONTH ACCESS QUALITY REPORT SUMMARY**Substance Abuse Treatment Facility  
(August 2021 through July 2022)

SATF POPULATIONS AS OF JULY 31, 2022	
Total Institution Population	4,603
% High Risk Medical Classification	15.4%
% Medium Risk Medical Classification	54.0%
% Americans with Disabilities Act (ADA) Patients	18.0%
% 50 Years or Older	31.0%
% Mental Health Population	52.5%

Signed on October 26, 2012, the *Delegation of Authority from the Receiver to the Secretary of the California Department of Corrections and Rehabilitation Related to Health Care Access Units (Delegation)* stipulates that institutions maintain a 99.00% or better standard for the “Custody Access to Care Success Rate.” The monthly Access Quality Report (AQR) was designed to track and monitor *custody resources and custody functions* as they relate to facilitating patient access to health care. Using data collected from the automated appointment tracking sheets in the Strategic Offender Management System (SOMS) Health Care Access (HCA) application, the objective of the AQR is to identify custody barriers to health care access, consistently improve performance, and establish accountability.

The AQR measures each institution’s success at achieving and sustaining patient access to health care services by documenting the number of ducats issued by health care discipline for scheduled appointments, the number of add-on appointments, and the outcomes of those appointments. The following is important to note:

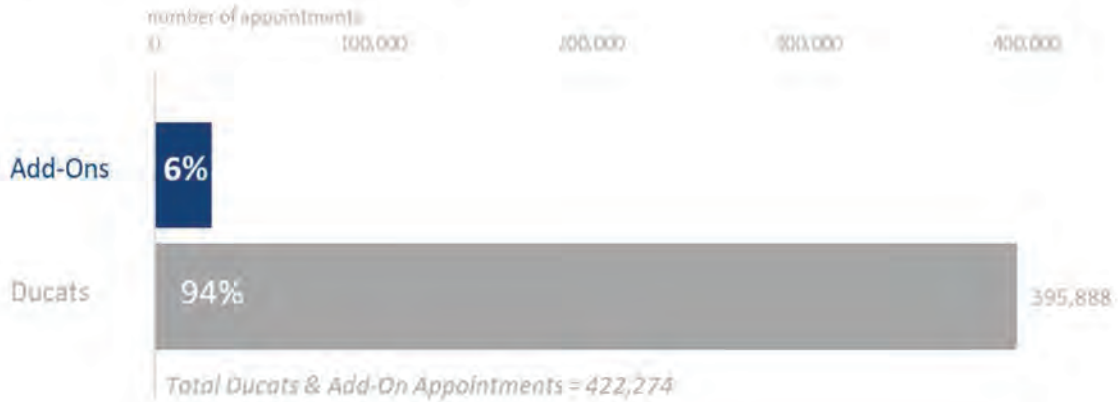
- A ducat, scheduled off-site appointment, or add-on appointment is considered complete if a patient arrived or was escorted to the health care location printed on the ducat, scheduled off-site, or as requested by the health care provider.
- A ducat, scheduled off-site appointment, or add-on appointment is considered incomplete if a patient does not arrive or was not escorted as directed on the priority ducat, scheduled off-site, or as requested by the health care provider.
- Incomplete ducats are coded as one of three outcomes:
  1. *Ducats/Scheduled Offsite Appointments and Add-on Appointments Refused by Patient*
    - The term “refusal” equates to a patient’s refusal to go to the health care location for the scheduled appointment or add-on appointment. A patient who refuses treatment at the health care location is considered a completed ducat or add-on appointment.
  2. *Ducats/Scheduled Offsite Appointments and Add-on Appointments Not Completed: Custody*
    - Custody reasons include insufficient custody staff, modified program, insufficient vehicles, or other custody-related reasons.
  3. *Ducats/Scheduled Offsite Appointments and Add-on Appointments Not Completed: Non-Custody*
    - All non-custody-related reasons.

The following charts and tables are based on AQR data during the review period.

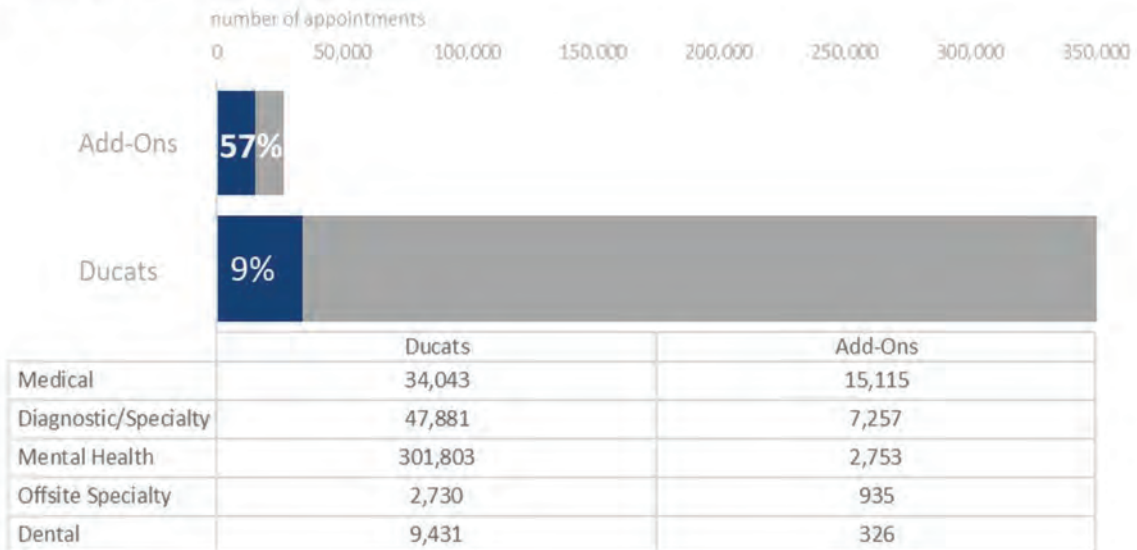
SATF 12-month AQR Roll-Up August 2021 - July 2022

DASHBOARD	August	September	October	November	December	January	February	March	April	May	June	July	Average
<b>Custody Access to Care Success Rate</b>	99.26%	95.61%	98.06%	98.17%	98.71%	97.81%	99.97%	99.72%	98.69%	95.02%	99.92%	98.65%	98.14%
Medical Services	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	99.64%	100.00%	99.95%	100.00%	100.00%	99.97%
Mental Health Services	99.00%	93.75%	97.15%	97.42%	98.33%	97.17%	99.97%	100.00%	98.28%	93.15%	100.00%	98.29%	97.38%
Dental Services	99.40%	100.00%	100.00%	100.00%	99.73%	100.00%	99.62%	99.08%	99.38%	100.00%	100.00%	100.00%	99.76%
Diagnostic/Specialty Services	99.88%	100.00%	99.93%	100.00%	99.55%	99.78%	100.00%	99.92%	99.75%	99.95%	100.00%	99.95%	99.89%
Offsite Specialty Services	99.13%	99.64%	100.00%	99.61%	100.00%	99.56%	100.00%	95.58%	90.68%	94.42%	91.03%	83.21%	95.95%

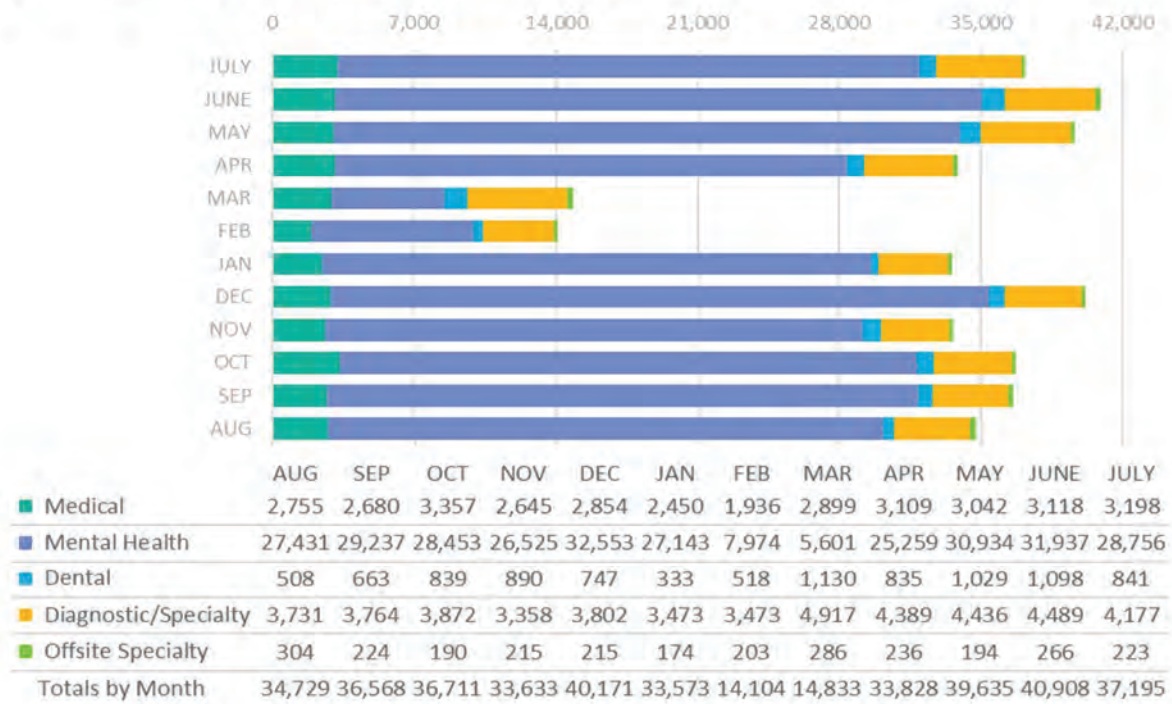
### SATF's Add-On appointments made up 6% of total appointments between August 2021 - July 2022



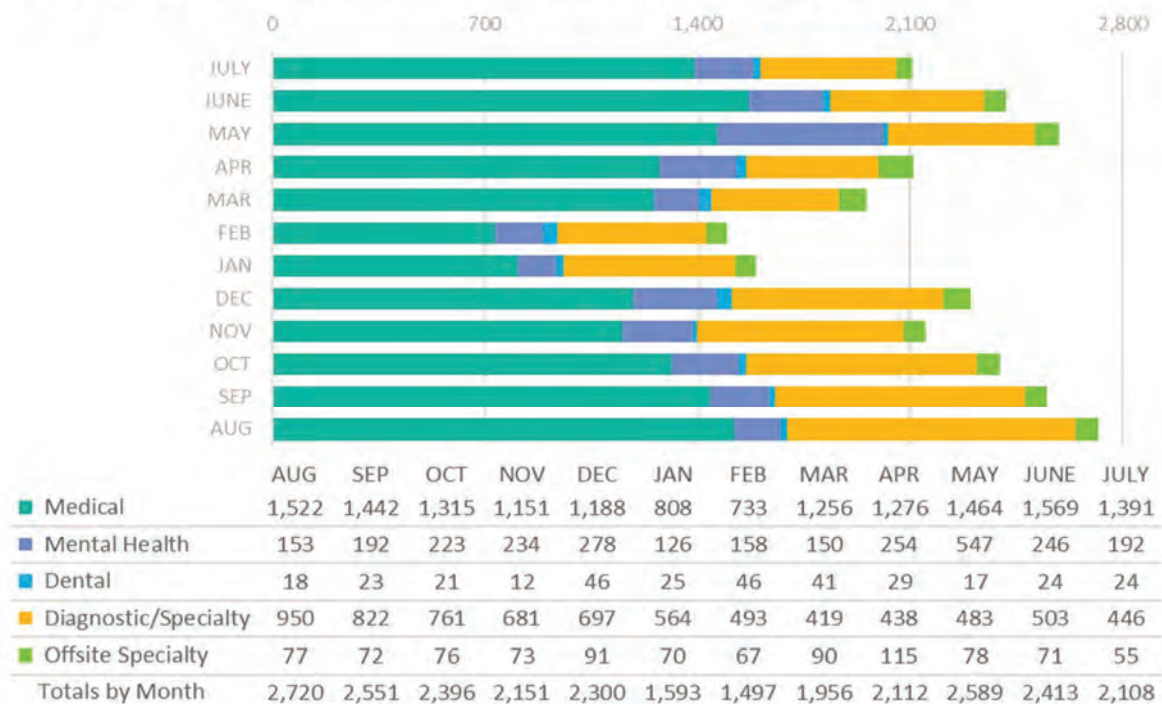
### Medical Services made up 57% of total Add-On appointments and 9% of total Ducats



### Ducats Issued by Month and Health Care Discipline

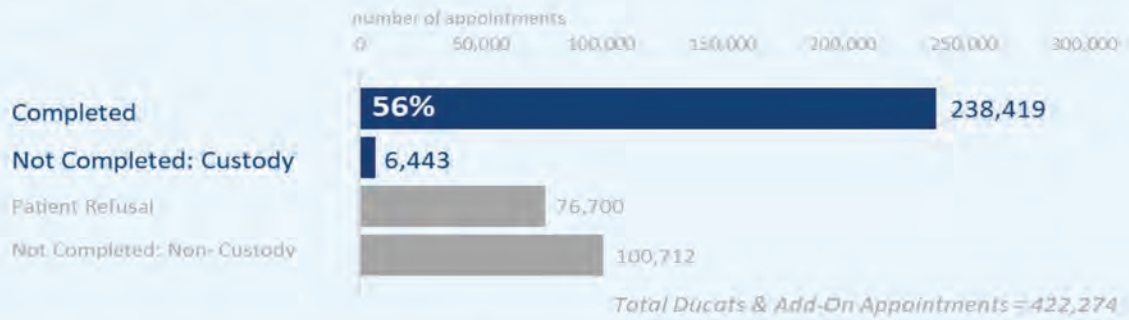


### Add-On Appointments by Month and Health Care Discipline

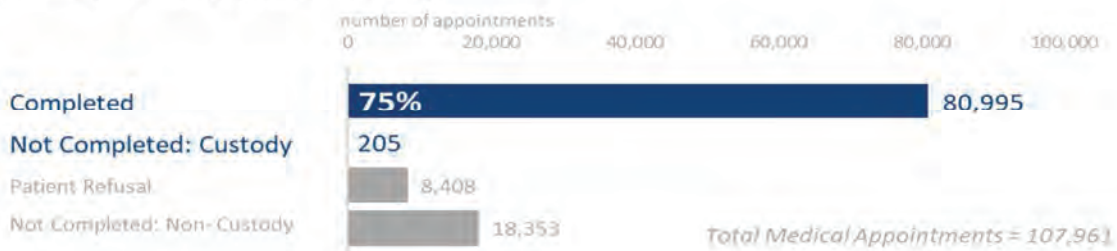




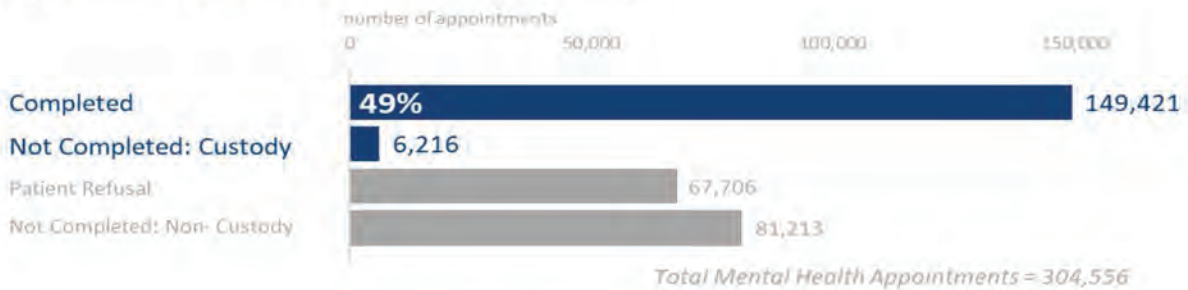
### SATF's Custody staff completed 56% of appointments



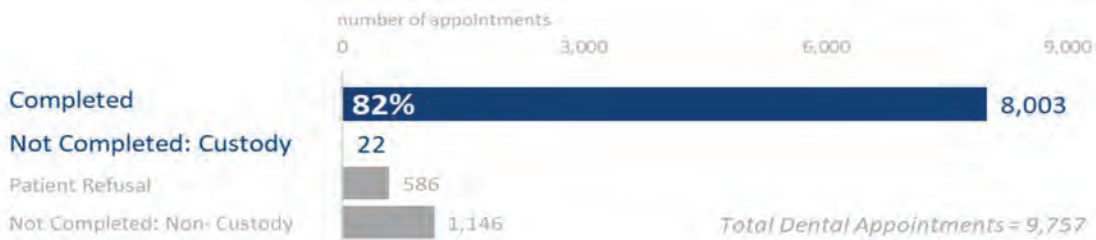
### Appointment Outcomes for Medical Services (including Diagnostics/Specialty and Offsites)



### Appointment Outcomes for Mental Health Services



### Appointment Outcomes for Dental Services





**Patients refused 18% of appointments; Mental Health made up 88% of refusals**



**2% of appointments were not completed due to Custody reasons; Mental Health Services made up 96% of those incomplete appointments**



**24% of appointments were not completed due to non-custody reasons; Mental Health Services made up 81% of those incomplete appointments**



# **EXHIBIT 12**

# California Department of Corrections and Rehabilitation In-Service Training (IST)



## Interacting with Inmates with Disabilities

*Version 1.1*

Course Code: 11062593

# IN-SERVICE TRAINING

## Interacting with Inmates with Disabilities

Version 1.1

Signature Sheet

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Date Approved

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**[REDACTED], Training Officer I**  
*Instructional Design and Training Section*

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Date Approved

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**[REDACTED], Staff Services Manager II**  
*Office of Training and Professional Development*

## CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION



# LESSON COVER SHEET

## OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

<b>Title of course curricula: IN-SERVICE TRAINING</b>	
<b>Title of lesson: INTERACTING WITH INMATES WITH DISABILITIES</b>	
<b>Developer:</b> [REDACTED]	<b>Last updated by:</b> [REDACTED]
<b>Course Code:</b> 11062593	<b>Modification date:</b> 06/2021
<b>Length of presentation:</b> 2 hours	<b>Date OTPD approved:</b> 03/2021
<b>Recommended maximum number of participants:</b> 40	<b>Recommended number of instructors:</b> 1
<p><b>Classroom/facility equipment requirements:</b></p> <p>Make sure all details for the lesson are arranged; i.e., classroom, multimedia equipment, etc.</p> <p><input checked="" type="checkbox"/> Classroom/facility equipped with computer, projector/projector screen, speakers</p> <p><input type="checkbox"/> Television</p> <p><input type="checkbox"/> Whiteboard, tear sheets</p> <p><input type="checkbox"/> Other</p>	<p><b>Instructional materials/resources:</b></p> <p><input checked="" type="checkbox"/> Instructor text and notes</p> <p><input checked="" type="checkbox"/> Participant workbooks</p> <p><input checked="" type="checkbox"/> Presentation slides/videos</p> <p><input type="checkbox"/> Performance measures</p> <p><input checked="" type="checkbox"/> Knowledge review</p> <p><input checked="" type="checkbox"/> Appendix materials</p> <p><input type="checkbox"/> Miscellaneous</p>

OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

**NEED FOR LESSON**

On March 11, 2021, an “Order for Additional Remedial Measures” was filed to require implementation of new remedial measures. This training is part of remedial measures to prevent further violations of class members’ rights throughout the Department. This lesson addresses and satisfies the requirement for that training.

**INSTRUCTIONAL GOAL**

Staff will be aware of their responsibilities under the Americans with Disabilities Act (ADA) and the Armstrong Remedial Plan (ARP).

**CORE TASKS**

- Understand how to appropriately interact with inmates with disabilities
- Understand reporting requirements, whistleblowing, and non-retaliation policies

<b>Target population</b> CDCR custody, health care, and mental health staff who interact with inmates	
<b>Instructor qualifications</b> Instructors must successfully complete a Training for Trainers course and a certification course presented by the Class-Action Management Unit.	
<b>Lesson prerequisites</b> None	<b>Lesson evaluation procedures</b> On file
<b>Sequence of all lessons</b> None	



OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

**SUBJECT MATTER EXPERT**

- [REDACTED] Lieutenant, Class Action Management Unit, Division of Adult Institutions

## OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

## LESSON COVER SHEET

<b>LEARNING OBJECTIVES</b>	<b>Page</b>	<b>Performance Measure</b>
1. You will identify the similarities of people with disabilities to those who do not have a disability.	3	Classroom Discussion
2. You will define “de-escalation.”	5	Classroom Discussion
3. You will identify the four stages of de-escalation.	6	Classroom Discussion
4. You will identify common misconceptions about wheelchair users and mobility disability.	13	Classroom Discussion
5. You will identify what deafness is.	15	Classroom Discussion
6. You will identify the purpose of effective communication with an inmate who is deaf or hard of hearing.	16	Classroom Discussion
7. You will identify the key point of etiquette for interacting with the visually impaired.	21	Classroom Discussion
8. You will identify mistreatments that people with developmental disabilities have experienced throughout history.	25	Classroom Discussion
9. You will identify four techniques to assist in communicating with mentally ill inmates.	27	Classroom Discussion
10. You will define “mental illness stigma.”	28	Classroom Discussion
11. You will identify specific learning disabilities.	30	Classroom Discussion
12. You will identify the meaning of the Code of Silence.”	34	Classroom Discussion
13. You will identify where the consequences for not reporting misconduct are located.	36	Classroom Discussion

OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

14. You will identify consequences that arise if inmate rights are violated.	41	Classroom Discussion
15. You will identify the eight steps of CDCR's ethical decision-making model.	43	Classroom Discussion

## OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

## LESSON COVER SHEET

**HISTORY**

<b>LESSON TITLE: INTERACTING WITH INMATES WITH DISABILITIES</b>			
<b>Date</b>	<b>Version No.</b>	<b>Designated Modifications</b>	<b>Authority Requesting Change</b>
06/2021 [REDACTED]	3.1	<p><b>IG/PW/PPT:</b></p> <p>Remove RJD throughout the lesson and generalize the language to include all institutions.</p> <p>Modify the order of topics; specifically the topics that are deemed “negative,” moved towards the conclusion of the lesson.</p>	Class Action Management Unit
03/2021 [REDACTED]	1.0	<p>Per court order, development of new lesson.</p> <p>Template 9.2</p>	Class Action Management Unit

OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

**STANDARD SAFETY PROVISIONS**

CDCR has created these safety provisions to provide optimum protection for participants during instructor-led training in a classroom.

**Instructor Modeling**

It is the instructor's responsibility to model, initiate, and follow through on safety procedures and emergency protocol.

**Safety Information**

The instructor will provide participants with information on safety procedures and emergency protocol prior to the beginning of the lesson. This will include:

1. Location of emergency exits, fire extinguishers, first aid supplies, and communication devices (which will be clearly labeled and posted).
2. Person (supervisor and phone number/extension) to contact in the event of an emergency.

**Report Injuries Immediately**

Participants should report any injuries or illnesses to the instructor immediately. The instructor will follow a formal process detailing actions to take if a participant is injured and/or loses consciousness. In order to determine the cause, there may be a review of injuries. Injured/ill participants may be required to have a medical release to allow participation continuance.

**Emergency Response Procedures**

If an injury occurs during this training, staff or participants will follow these emergency response procedures:

1. Respond to the injured staff.
2. Determine the initial type and extent of the injury.
3. Call the watch desk for assistance.
4. Take the appropriate first aid action.
5. Notify the supervisor(s).
6. Complete required documentation.

**Clothing**

Participants' clothing and footwear shall conform to departmental policy guidelines.

**Restrooms and Drinking Water**

Make participants aware of the location of restrooms and drinking water.

**Conduct**

Advise participants to follow instructions and conduct themselves in a professional manner at all times. If in doubt as to what to do, participants should ask the instructor for further instructions, information, or clarification.

## INSTRUCTOR NOTES

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### **Overview**

The Interacting with Inmates with Disabilities lesson will provide staff with information on interaction, related law, de-escalation techniques, ethical and professional behavior, and the consequences of not reporting misconduct.

- Review the learning objectives during the summary, prior to the practice activity

### **Before the Lesson**

Before presenting this lesson, conduct a dry run with the slides to ensure that any embedded videos are functioning.

Pace the presentation time according to the timing allotment of each section noted in the instructor text.

- Review the instructor guide become familiar with the lesson content
- Arrange all details for the lesson, i.e., classroom, multimedia equipment, etc.
- Allot time for discussion throughout the lesson to address information related to CDCR



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**Activity 1:****Sample Spelling Test****Instructor Note**

When playing videos, audio level should be set to hear no sound on the severe hearing loss simulation.

**Reference for activity on page 15**

Prior to playing the videos on slides 6.6 through 6.9, instruct participants to:

- Retrieve a sheet of paper
- Number one through ten on the left side from top down
- Create three columns labeled severe, moderate, and mild

Play the videos on slides 6.6 through 6.9. Participants should follow the videos and complete the three spelling tests. Upon completion of the tests, select participants to state their answers.

Discuss the various challenges deaf and hard of hearing inmates may face in an institutional setting (i.e., alarms, announcements, verbal commands, etc.).

Answer key:

1. Bath
2. Pearl
3. Sour
4. Mouse
5. Learn
6. Wheat
7. Vine
8. Tape
9. Hedge
10. Nude

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## I. INTRODUCTION

### Section Time

5 minutes

### Slides

1.0-1.1

### Slide

1.2

#### Instructor Note

Play video: CDCR  
Executive  
Message

2:41 min

Convey the  
importance of this  
training and link  
to the video.

### Slide

1.3

### A. Overview of Lesson

This lesson will provide you with tools, options, and knowledge to assist in resolving situations with inmates with disabilities. You will also be informed of your obligation to report misconduct and the consequences of not reporting misconduct.

Incarcerated individuals are afforded a minimum standard of living, free from “cruel and unusual punishment” under the Eighth Amendment.

Disabled inmates may be susceptible to either harm, abuse, or both from staff and other inmates because they are often viewed as less of a threat or vulnerable. California Department of Corrections and Rehabilitation (CDCR) staff must be vigilant in affording the disabled inmate population protection and security from violence, abuse, and mistreatment.

### B. Video: CDCR Executive Message

This video is a short message from Secretary Allison.

### C. Importance

On March 11, 2021, an “Order for Additional Remedial Measures” was filed to require the implementation of new remedial measures to prevent further violations of the Armstrong Remedial Plan (ARP) and American with Disabilities Act (ADA). This training is part of remedial measures to prevent further violations of class members’ rights throughout CDCR and to enforce CDCR’s requirement of minimal reliance on the use of force.

## II. UNDERSTANDING DISABILITY

### Section Time

15 minutes

### Slides

2.0-2.1

By understanding people with disabilities, you will have the ability to communicate and interact appropriately, foster an environment that aligns with CDCR policy, and promote an environment free of discrimination.

CDCR's Department Operations Manual (DOM) Section 84070.5, Americans with Disabilities Act Accommodations Policy for Remedial Sanctions, states the following:

- "CDCR shall provide reasonable accommodations or modifications for the known physical, developmental, or mental disabilities of qualified offenders  
 "No qualified offenders with disabilities as defined in United States Code, Title 42, Sections 12101 through 12213 shall, because of those disabilities, be excluded from equal and effective participation, to the best of their abilities, in any CDCR programs.
- "All State-sponsored programs shall provide reasonable accommodations in accordance with the Americans with Disabilities Act, *Armstrong v. Newsom*, and the *Armstrong Remedial Plan*  
 "Examples of reasonable accommodation include special equipment (such as sound readers, sound amplification devices, Braille materials), bilingual or qualified sign language interpreters, modified work or program schedules, or grab bars installed to improve the mobility of impaired offenders who require assistance."

### Slide

2.2

### Instructor Note

Play Video:  
 "Changing the  
 Way We talk  
 About Disability"

4:24 minutes

### Video: "Changing the Way We Talk About Disability," Part I

Amy Oulton is a 28 year old with Ehlers-Danlos syndrome, a connective tissue disorder. Ehlers-Danlos syndrome makes her joints weak and prone to dislocation. While she can walk short distances, it is difficult for her to leave the house without her wheelchair. In the video, Oulton explains how disabilities should be addressed by society.

Slides  
2.3-2.5

**Learning Objective 1: You will identify the similarities of people with disabilities to those who do not have a disability.**

People with disabilities often have behaviors and beliefs that are similar to persons not affected by a disability. Most people with a disability share the same interests in events or activities, such as health, education, religion, family, and many others. Most people with disabilities are born to parents who do not have a disability. Unlike other groups, people with disabilities often learn disability issues (e.g., resources, coping) from other people with disabilities.

People with disabilities recognize they share a similar, but a unique history in overcoming their disability, as it relates to discrimination and laws of protection compared to others. People with disabilities are protected from discrimination by law and CDCR policy. We must truly recognize people for who they are. A person's disability may be part of their identity, but it is not the only aspect of their identity.

For many, the word "disabled" has been re-purposed to represent a social identity of empowerment and awareness. Like many civil rights movements in the past, disability culture challenges the norms of society and seeks to counter oppressive entities such as medicalization and institutionalization. Its core cultural values are reflected in art, conversation, goals, or behaviors and often include:

- An acceptance of human differences
- An acceptance of human vulnerability and interdependence
- A tolerance for a lack of resolution of the unpredictability in life
- A humor to laugh at the oppressor or situation, however dire it may be



**Slide**

2.6

**Instructor Note**

Play Video:  
"Changing the  
Way We Talk  
About Disability"  
Part II.

5:07 minutes

**Video: "Changing the Way We Talk About Disability,"  
Part II**

This is the second part of Amy Oulton who further discusses her disability and how the world around her reacts to a person with a disability and how a man-made barrier does not inhibit her freedom. Conversations open up a world where people face barriers and allows for understanding.

### III. DE-ESCALATION TECHNIQUES

<p><b>Section Time</b></p> <p>17 minutes</p>
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<p><b>Slides</b></p> <p>3.0-3.4</p>
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<p><b>Instructor Note</b></p> <p>Play video on slide 3.1, "The Three Tactical Principles."</p> <p>12:10 minutes</p>
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CDCR strives and works towards being transparent. Although the Department continues to evolve, social media and news headlines have made a tremendous impact on law enforcement policy. Never before has a need for professional conduct been more apparent. We need to act, talk, and be more professional now more than ever.

To avoid potentially violent situations, when imminent danger is not present, verbal de-escalation should be attempted. The main objective is to reduce the level of tension or aggression so a discussion can occur. Without the use of de-escalation techniques, an enraged person cannot be reasoned with. De-escalation techniques are not necessarily natural traits for everyone; however, through training and practice, they can become second nature.

When attempting de-escalation with inmates with disabilities, it is important to consider the inmate's disability and attempt to establish effective communication (EC) prior to using force if time and circumstances permit. If the need to use force arises, staff must determine the appropriate level of force, based on each unique situation.

#### **Learning Objective 2: You will define "de-escalation."**

De-escalation is the reduction of the intensity of tension or aggression so discussion can occur using EC.

EC is the foundation for being effective in your job. Failure to communicate effectively can quickly remove any credibility you have acquired. In addition, utilizing de-escalation techniques may reduce your reliance on use of force.

<p><b>Slide</b></p> <p>3.5</p>
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#### **A. Stages of De-Escalation**

Your role in de-escalating a situation is attempting to influence the inmate to change their behavior through verbal persuasion. If an inmate is in crisis, you must first decrease the level of tension or aggression so a conversation can begin. Once the crisis has ended, you

can use the problem-solving approach to address the conflict.

In a crisis situation, you must attempt to develop a rapport with the inmate in crisis. The desired result is to gain rapport with the inmate, which will allow you to influence and verbally persuade the inmate in crisis to accept and to do as you suggest.

Slides

3.6-3.9

### **Learning Objective 3: You will identify the four stages of de-escalation.**

The four stages of de-escalation:



#### 1. Begin EC

Below are ways to begin EC:

- A simple introduction
- Ask open-ended questions

#### 2. Develop empathy

Empathy implies identification with, and an understanding of, another's situation, feelings, and motives. This can be accomplished by asking open-ended questions and actively listening to the responses. The staff person uses empathy to see through the eyes of the inmate in crisis and to absorb tension. Attempting to understand the problem is important. When you are able to accomplish this, you are mirroring the inmate.

**Slides**

3.10-3.12

**3. Build rapport**

Up to this point, the relationship has been one-sided as the inmate in crisis has been talking and the staff person has been actively and empathetically listening. Once empathy has been established, the development of rapport can begin. Once rapport has been developed, you are more likely to influence behavior change.

Paraphrasing is an effective tool in building rapport. Paraphrasing is accomplished by listening to what the inmate says and then restating the information, as you understood it, back to them. By paraphrasing, you are reassuring the inmate you are listening.

**4. Influence behavior change**

Once rapport has been established, you can begin to suggest a course of action to the inmate in crisis. You and the inmate can work together to identify possible solutions and alternatives that are suitable to all parties.

Behavior change will occur upon successful completion of the stages of de-escalation. The level of tension or aggression must be lowered for a rational conversation to occur. Once de-escalation has occurred, you can begin using the problem-solving approach.

**Slide**

3.13

**B. Conflict vs. Crisis**

A large portion of your job is problem-solving, which can assist you in identifying if an inmate is experiencing a conflict or crisis and assist in effectively de-escalating a situation.

<p>Slides</p>
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<p>3.14-3.17</p>
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When confronted by someone in a high-stress situation, individuals tend to communicate utilizing two basic elements:

- **Content:** Focus is on a specific service, item, or individual
- **Emotion:** The cause of the stress may be related to the content; however, the individual is now more concerned with how it has made them feel, rather than the original problem

By identifying whether an individual is communicating using content or emotion, you will be able to determine whether an individual is in conflict or crisis. Content is more external (specific to the event) and emotion is more internal (reaction to the event).

You will need to use your problem-solving skills to identify if an inmate is experiencing a conflict or crisis. Typically, inmates experiencing a problem will respond with either a conflict or a crisis reaction. It is imperative to distinguish between the two, as an inmate in crisis is more likely to respond violently.

### **Conflict**

According to Merriam-Webster.com, conflict is defined as a “mental struggle resulting from incompatible or opposing needs...”

Inmates experiencing a conflict have a situation that needs to be addressed and are seeking a remedy. They are usually rational and goal oriented. These situations can usually be handled utilizing the problem-solving approach.

**The problem-solving approach:** Ask, Explain, Present Options, Give Orders, Take Action

- **Ask:** Ask the inmate to comply with your direction

- **Explain:** Explain to the inmate why they need to comply with the direction (includes listening)
- **Present options:** Present alternative options to the inmate, if possible
- **Give orders:** Order the inmate to comply with your direction
- **Take action:** Take appropriate action

Slide

3.18

### **Crisis**

A crisis can be defined as a situation where stress causes a person's normal functioning to breakdown, resulting in a highly emotional state of mind. A person in crisis typically demonstrates observable signs.

In a crisis situation, an inmate's focus is on expressing, venting, or displaying their emotions rather than solving the conflict. Inmates communicating with high emotions are likely in a crisis situation and may be irrational.

Part of de-escalation is to reduce the level of tension or aggression (emotion) in an effort to identify the conflict. If the inmate exhibits irrational thinking, unclear goals, and resists communication, it is likely you will have to utilize de-escalation techniques prior to attempting to identify the conflict.



#### IV. DE-ESCALATION WITH DISABLED/MENTALLY ILL INMATES

**Section Time**

5 minutes

**Slides**

4.0-4.1

This section will address how to de-escalate situations with mentally ill, or developmentally or physically disabled inmates. Although the stages of de-escalation are similar, identifying the emotion or cause of the crisis will require additional understanding of the mentally ill or disabled inmate.

##### A. Physical Disability

People with physical disabilities have a physical impairment which has a substantial and long-term effect on their ability to carry out day-to-day activities, and may also include their ability to effectively communicate. Physical disabilities may include mobility, vision, speech, or hearing disabilities.

When interacting with all inmates, including those with disabilities, you shall maintain professionalism, respect, and courtesy at all times.

Utilizing EC techniques greatly increases your probability of having a successful conversation. Tools to assist in your interactions with disabled inmates:

- Review Strategic Offender Management System (SOMS)
- Get the person's attention
- Listen
- Show interest
- Act and speak naturally
- Be honest
- Rephrase words when necessary
- Provide options
- Recognize their readiness to communicate
- Use simple language

**Instructor Note**

Discuss with the class reasonable accommodations or durable medical equipment (DME) that are provided to the inmate allowing equal access and participation in PSAs.

Slide

4.2

Individuals with physical disabilities live the same as others. Although, some ways of doing things may be a little bit different depending on the type and severity of the inmate's disability. Generally, inmates with disabilities just want to be treated the same as other inmates—with equal treatment. Staff shall treat all inmates with fairness and respect, including those with disabilities.

Slide

4.3

### B. Vision Disability De-Escalation

When attempting to de-escalate a situation involving an inmate with a vision impairment, certain strategies can lead to a successful interaction:

- Identify yourself; do not assume the person will recognize you by your voice
- Speak naturally and clearly
- Use everyday language
- Use accurate and specific language when giving directions



Slides

4.4-4.5

### C. De-Escalation for Developmental Disability Program Inmates

The four stages of de-escalation, beginning EC, showing empathy, building rapport, and influencing behavior change will be effective in a situation with a developmental disability program (DDP) inmate.

Utilizing EC tools and de-escalation techniques are essential to gain willful compliance.

In a conflict or crisis situation, consider the behavior as a symptom of the crisis. Behavior is often the only way a DDP inmate can express that something is wrong. Inmates may act out or misbehave, or they may become extremely withdrawn. When an inmate exhibits a change in behavior, it may be a signal that they have a physical health problem causing pain or discomfort or that their environment is not meeting their needs.

To help identify what the problem is, use adaptive communication skills including:

- Set limits before beginning a conversation
- Minimize distractions
- Calmly get the inmate's attention
- Be specific and concrete
- Use simple instructions; repeat as necessary
- Use open-ended questions

## V. MOBILITY DISABILITY

### Section Time

5 minutes

### Slides

5.0-5.4

Mobility disability, or impairment, refers to the inability of a person to use one or more of their extremities, or a lack of strength to walk, grasp, or lift objects. The use of a wheelchair, crutches, cane, or a walker may be utilized to aid in mobility.

**Learning Objective 4: You will identify common misconceptions about wheelchair users and mobility disability.**

- Wheelchair users cannot walk at all

Wheelchair users may be immobile, have limited ability to walk, or find it easier to use the wheelchair for longer distances. Many with limited strength are still able to move themselves to other objects (e.g., bed, toilet, chair, etc.) from the wheelchair.

To understand the severity of an inmate's disability, reference the inmate's Disability/Accommodation Summary in SOMS.

- Wheelchair users require constant observation and assistance



Although inmates may require reasonable accommodations in a correctional setting, many wheelchair users in the community are able to live independently by modifying their homes and making them wheelchair accessible. This may include modifications to doors, lighting, flooring, hallways, bathrooms, etc. However, in a correctional setting,

inmates often lack the resources to modify their living situation. CDCR shall provide reasonable accommodations for all inmates, providing equal access to programs, services, and activities (PSAs), as well as modifications to housing.

Slides

5.5-5.6

- Wheelchair users have mental disabilities

Some inmates with a physical disability may also have a mental disability; however, there are many who do not. It is wrong to assume that someone in a wheelchair has a mental disability or cannot speak for themselves.

Reference the inmate's Disability/Accommodation Summary in SOMS to determine if they are a participant in DDP or Mental Health Services Delivery System (MHSDS). Often times, people with a physical disability are treated as if they have a mental disability. By reviewing SOMS, you can identify a potential dual diagnosis to determine if mental health or DDP are additional factors to consider.

For inmates with disabilities, mistreatment and devaluing may cause heightened levels of frustration. Over time, this frustration may lead to acting out and potentially dangerous situations. You can reduce inmate frustration and increase morale among inmates with disabilities by effectively communicating, displaying respect, professionalism, and providing reasonable accommodations in your daily interactions.

## VI. DEAF AND HARD OF HEARING

<p><b>Section Time</b></p> <p>15 minutes</p>
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<p><b>Slides</b></p> <p>6.0-6.2</p>
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<p><b>Instructor Note</b></p> <p>Play videos on PowerPoint slides 6.3-6.5. Refer to the Activity Reference Page for instructions.</p> <p>When playing videos, audio level should be set to hear no sound on the severe hearing loss simulation.</p>
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<p><b>Slides</b></p> <p>6.6-6.9</p>
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Deaf usually refers to a hearing loss so severe that there is very little or no functional hearing. Hard of hearing refers to a hearing loss where there may be enough residual hearing that an auditory device, such as a hearing aid, provides adequate assistance to process speech.

### A. Activity: Sample Spelling Test

You will watch three videos that will show examples of how difficult it can be for a deaf person to communicate. On a sheet of paper, number one through ten, and create three columns labeled severe, moderate, and mild. Each video will state ten words and simulate what a deaf person may hear. Try to write down all ten words.

After the video, be prepared to share your answers and discuss the various challenges deaf and hard of hearing inmates may face in a correctional setting.

### B. Effective Communication

The deaf and hard of hearing community is diverse. There are variations in the degree and cause of deafness, age of onset, educational background, and communication methods. These factors along with the environmental factors in a correctional setting will determine what equates to EC for each deaf or hard of hearing individual under ADA.

#### **Learning Objective 5: You will identify what deafness is.**

Deafness is an invisible or hidden disability and often is not immediately apparent. This disability can create challenges not only for the person who has the disability, but for others to recognize, understand, or acknowledge. Deafness, a communication disability, can affect the spoken language acquisition, literacy, communication, and socialization for an inmate. Failure to provide appropriate accommodations or interactions



**Instructor Note**

Emphasize the diversity of people who are deaf/hard of hearing. Things like background noise, etc. make it more difficult to understand. Understanding requires intense concentration, easy to confuse words, you may think you understood something correctly but may not have.

**Slides**

6.10-6.12

**Instructor Note**

Keep in mind various environmental factors contribute to noise levels. Be cognizant of your surroundings and remember background noise can make communication challenging. Quiet environments are the easiest to hear in.

(e.g., SLI, closed captioning, etc.) often leads to avoidable miscommunication or increased danger for inmates and staff.

Many deaf and hard of hearing people are just as insecure as you are about not understanding or being understood, and they have to face this insecurity every day. While they may have learned patience over time, the frustration adds up.

**Learning Objective 6: You will identify the purpose of effective communication with an inmate who is deaf or hard of hearing.**

EC provides deaf and hard of hearing inmates' opportunities to participate in benefits of PSAs equal to that enjoyed by an inmate who is not deaf or hard of hearing. You can accomplish this by ensuring inmates are aware of announcements, it is time for yard, dayroom, school, showers, etc.

Most people use tone of voice to convey emotion; however, deaf and hard of hearing people use facial expressions and body language to convey tone.

There are many instances in a correctional setting that you may be required to get a deaf person's attention. Effective methods of getting a deaf or hard of hearing inmate's attention are:

- Ask another person to get their attention for you  
If the deaf inmate is not looking at you, it is appropriate to ask someone in their line of sight to get their attention for you.
- Waving  
To get the deaf inmate's attention, casually wave your hand in their peripheral vision field. A frantic wave means something is wrong.

- Flickering the lights

This custom is equivalent to yelling for everyone to “listen up.” You can also use it to draw attention when you enter the room if the inmate’s back is turned towards you. Flickering the lights is an effective method of notifying deaf inmates of institutional alarms or other emergencies.

When time and circumstances permit, you must ensure EC is established prior to the use of force involving an inmate with a hearing disability.

Additionally, when communicating with a deaf or hard of hearing person, avoid the following:

- Chewing gum

Mouth movement is an important part of signed communications, and it makes lip reading difficult because it changes the way you move your mouth.

- Throwing objects to get their attention

Besides being just plain rude, it is also dangerous.

- Grabbing or poking when you walk up

This action is commonly used as a warning that something is wrong or there is an emergency. You may startle or scare the deaf person because they will not hear you approach.

Understanding differences within the deaf and hard of hearing community will improve your ability to communicate and interact with deaf inmates. Some differences are:

- Louder speech
- Very animated with use of hand gesture
- Not affected by verbal commands and loud noises

Remember, EC is required for all inmates, during all interactions. For due process events, ensure EC is

**Slide**

6.13

**Instructor Note**

Hearing-impaired inmates are required to wear their hearing-impaired vest during out-of-cell programming unless hearing aids are being utilized.

documented for inmates with disabilities impacting communication. A sign language interpreter is required for all due process events and medical encounters for inmates with sign language as a primary method of communication. Reference the Disability/Accommodation Summary in SOMS to locate the inmate's disability, and provide assistance consistent with the disability, including the inmate's expressed need.

**Slides**

6.14-6.17

**Instructor Note**

Be mindful that SLI requires additional body language and animation. At times, SLI users may appear agitated, when in fact, they are only attempting to convey a message.

**C. Misconceptions**

Misconceptions about deaf and hard of hearing people include:

- Deaf and hard of hearing people “hear what they want to hear”

Many factors affect how well a deaf or hard of hearing person understands what somebody else says, including background noise, whether they can see the speaker's face clearly, whether they are tired, stressed, or distracted.

In general, it is easier to understand someone when they are saying what you expect (that is, what you want to hear) than otherwise, giving the impression that deaf or hard of hearing people “hear what they want to hear.” That is not what is happening.

- If someone can talk, it means they can hear
  - The ability to speak is not lost due to hearing loss
  - The ability to speak may have been learned prior to hearing loss
  - Therapy and training can help improve deaf or hard of hearing people's speech

<p style="text-align: center;"><b>Slides</b> 6.18-6.20</p>
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- If they are wearing their hearing aid, it means they can hear you

Hearing aids do not work like glasses. While some people can hear once they have hearing aids on, many people cannot. The hearing aid may not be functioning well, or background noise may interfere with sound clarity. For some, hearing aids assist with detecting noises, but do not help with understanding speech at all.

- Most deaf people are able to read lips
  - Lip reading is a difficult skill to acquire. Even the best lip readers can only catch 25-30 percent of what is being said
  - Many mouth movements appear similar on the lips and may look the same to a deaf person
  - Lip reading is much more difficult when the information is new or unexpected
- Deaf people cannot talk
  - Some deaf people can speak well
  - Some deaf people may choose not to talk because it is difficult for them to regulate the volume, pitch, or sound of their voices
  - Deaf people do not want to be labeled as “deaf-mute” or “deaf and dumb” and reject them as offensive

Challenges deaf and hard of hearing inmates face:

- Difficulty hearing announcements and alerts
  - Count
  - Meal time
  - Medication

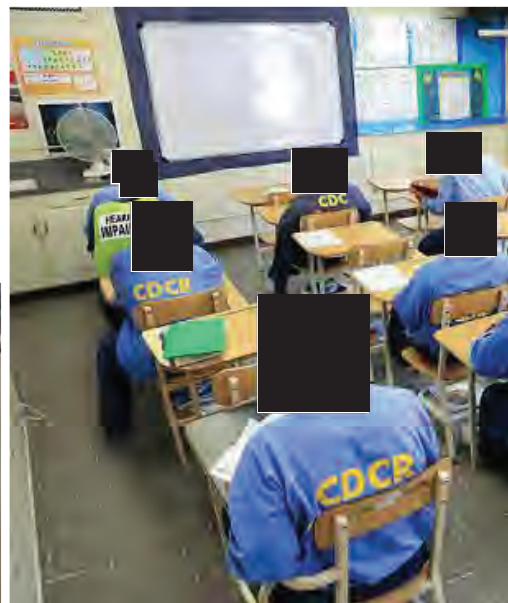
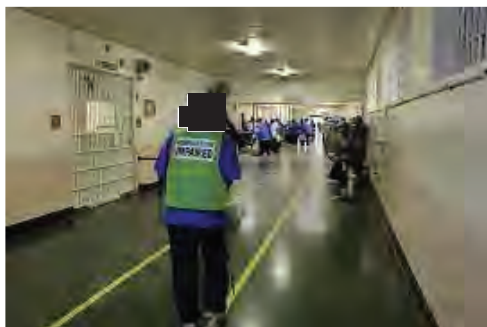
- Pages
- Other announcements
- Difficulty hearing orders issued orally
- Want to avoid seeming vulnerable
- Understanding written material
- Staff masks during the COVID-19 pandemic
- Misunderstanding what people say
- Difficulty hearing or understanding anything when there is background noise

Slide  
6.21

**Instructor Note**

Discuss the prison environment, and why a deaf person would not want to appear vulnerable.

When interacting with the deaf and hard of hearing population, the most valuable tool you can possess is patience. Regardless of the method of communication utilized (sign language interpreter [SLI], lip reading, written notes, etc.), you may have to provide an explanation several times to ensure EC is achieved. Ensure your interaction and EC is tailored to the individual. SOMS may provide communication information that can assist in accommodating the needs of the inmate.



## VII. VISION DISABILITY

### Section Time

5 minutes

### Slides

7.0-7.3

Inmates with a vision disability are either classified as having severe visual impairment or legal blindness. The visual activity of an inmate with severe visual impairment is 20/70 or less in the better eye with the best correction, or a visual field of 40 degrees in the better eye. To be considered for legal blindness the visual activity is 20/200 or less in the better eye with the best correction, or a visual field of no greater than 20 degrees in the better eye.

### A. Visually Impaired Interaction

**Learning Objective 7: You will identify the key point of etiquette for interacting with the visually impaired.**

When interacting with an inmate who has a vision disability, the points of etiquette you should follow are:

- Introduce yourself using your name and position
- Speak directly to the person using a natural conversational tone and speed
- Immediately greet them when they come into a room—this allows them to know you are there to assist them if needed
- Indicate the end of a conversation to avoid embarrassment of leaving them speaking when no one is actually there

### Slides

7.4-7.7

### B. Misconceptions

Misconceptions from the sighted community stem from a lack of understanding about blindness. By dispelling the following myths, you can increase your understanding of the blind community:

- **False:** Blind individuals are granted heightened senses and skills to counteract the vision impairment

**True:** Blind people do not organically develop heightened senses. However, they do rely on other



senses that differ from people with intact sight. The method of learning to do familiar tasks with alternative senses is a learned skill that takes repetition, hard work, and sharp memory.

- **False:** Blind people cannot see anything. They just see complete and total darkness

**True:** Approximately 10-15 percent of the visually disabled population see nothing at all. The majority of those with impaired vision have varying levels of sight.

- **False:** You can always tell when someone is blind

**True:** Most blind people have some limited usable vision. People with visual acuity of less than or equal to 20/200 are considered blind. Blind people do not always use tinted glasses, or white canes. If you notice that someone is blind or has a visual impairment, respect the individual as you would anyone else. You should not focus on pity in your conversation. Although you may say things with good intentions, your comments may be misconstrued as devaluing. Similarly, avoid patronizing remarks like “You get around well for a blind person.” This type of remark will most likely be received as impolite, and will only frustrate the person you are talking to.

Slide

7.8

### C. Housing

When DPV class members change housing or first arrive at an institution and require accommodations, it is critical to orient them to new facilities including showing them how to get to critical locations from their bunk, such as the sink, bathroom, shower, and the closest staff station.

## VIII. DEVELOPMENTALLY DISABLED

**Section Time**

5 minutes

**Slides**

8.0-8.1

According to the Centers for Disease Control and Prevention, developmental disabilities are a group of conditions due to an impairment in physical, learning, language, or behavior areas. These conditions begin during the developmental period of an individual, and may impact their day-to-day functioning, and usually last throughout a person's lifetime.

A developmental disability starts any time before a child turns 18 and is characterized by problems in two ways:

- Intellectual functions which include the ability to learn, reason, problem solve, and other skills
- Adaptive behavior which includes everyday social and life skills (e.g., grooming, following instructions, etc.)

**Slide**

8.2

### A. Developmental Disability Program

DDP is the Department's plan, policies, and procedures to assure identification, appropriate classification, housing, and protection; and nondiscrimination of inmates with developmental disabilities. DDP applies to all of the Department's institutions and facilities, to all programs that the Department provides or operates, and to all inmates who have developmental disabilities.

DDP includes individuals with low cognitive functioning. Examples of a developmental disability include autism, a spectrum disorder, or intellectual developmental disorder. In the community, for a diagnosis of developmental disability, the disability must have originated before the age of 18. CDCR's program can include inmates with other cognitive disorders, such as a traumatic brain injury (TBI) or a stroke that caused paralysis, and conditions with an onset occurring after the age of 18, such as dementia or Alzheimer's.

DDP Inmates often need to be guided through their decision-making processes and be reminded what the

subject of your discussion or interaction entails. Although, there is no cure for developmental disabilities, life skill training can be provided to help improve their independence, but it will not remove their developmental disability.

Slide

8.3

## **B. Adaptive Support Services**

Adaptive support services are provided by staff to assist inmates in the performance of daily living activities and to ensure equal access to PSAs.

Adaptive support services may include, but are not limited to the following:

### **Prompting**

These are reminders provided to inmates to begin or complete an activity or behavior (e.g. self-care, requesting cleaning supplies, accessing medical care). Prompts may involve verbal, visual, or written reminders as well as hand gestures.

### **Coaching**

This is prompting an inmate through specific, usually vocational, tasks until the inmate has acquired the skill to complete the task independently.

### **Assisting**

This is assistance by trained staff to enable DDP inmates to understand and participate in, to the best of their ability, disciplinary, classification, and other administrative hearings.

### **Monitoring**

This is providing additional supervision of a DDP inmate's self-care, cell maintenance, personal safety, behavior, and property.

Slide  
8.4

### **Adaptive communication skills**

- Set limits before beginning a conversation
- Minimize distractions
- Calmly get the inmate's attention
- Be specific and concrete
- Use simple instructions; repeat as necessary
- Use open-ended questions

Slides  
8.5-8.8

### **C. Developmental Disability Program Disciplinary Process**

To assist DDP inmates in conforming to departmental rules and regulations, all staff who interact with this population must closely monitor the inmate's daily activities. Staff may attempt to address problematic behaviors informally (e.g., direct instructions, prompting, verbal counseling) and must ensure the inmate understands, to the best of their ability, the consequences of continued misconduct.

#### **Learning Objective 8: You will identify mistreatments that people with developmental disabilities have experienced throughout history.**

Throughout history, people with developmental disabilities have experienced mistreatment and are often times devalued. Whenever a group of people is deemed less valuable, they become vulnerable to abuse, neglect, discrimination, theft, and exploitation. Stereotypes, misinformation, and a lack of interest, all contribute to a culture where people with developmental disabilities are not treated as individuals.

Common stereotypes of people with developmental disabilities:

- Cannot learn new things or have lower IQs
- Are burdens

- Are not equal
- Do not have human feelings and emotions
- Are unable to feel basic physical sensations, such as pain, cold, and hunger
- Do not make any worthwhile contributions to society
- Are incapable of making decisions for themselves

Stereotypes are harmful and by accepting stereotypes as true, you may subconsciously mistreat individuals. Like many stereotypes, those about the developmentally disabled population are untrue. Many people with developmental disabilities lead fulfilling lives, and make large societal contributions.

## IX. MENTAL ILLNESS

### Section Time

5 minutes

According to the Alliance on Mental Illness, a mental illness is a condition that affects a person's thinking, feeling, behavior, or mood. These conditions deeply impact day-to-day living and may also affect the ability to relate to others.

### Slides

9.0-9.2

A mental health condition is not the result of just one event. Various research suggests there may be linking causes such as genetics, environment, lifestyle, stress, traumatic events, biochemical processes, and brain structure. Disorders may include anxiety, bipolar, depression, schizophrenia, borderline personality disorder, and anti-social personality disorder.

### Slides

9.3-9.5

### A. Mental Health Services Delivery System

The purpose of MHSDS is to provide access to, and delivery of, mental health services for inmates incarcerated within CDCR.

The Department recognizes the importance of aiding in rehabilitation through proper diagnosis, treatment, and training of mentally ill inmates.

Most individuals with mental illness are not dangerous, but a special set of skills is required to de-escalate their crisis. Understand that an enraged or irrational person cannot be reasoned with; therefore, reducing the level of tension or aggression is necessary before you can identify the conflict.

If the inmate is not an immediate danger to themselves or others, try to de-escalate the situation.

**Learning Objective 9: You will identify four techniques to assist in communicating with mentally ill inmates.**

Techniques that should be utilized when establishing EC with a mentally ill inmate are:

- Lowering your volume



- Being respectful
- Not challenging their reality
- Not lying

De-escalation is a very important tool for all staff. Recognizing signs and behaviors indicative of a crisis can greatly reduce the chances of an incident requiring the use of force.

Slides

9.6-9.9

## B. Mental Illness Stigma

Attitudes toward mental illness vary among individuals, families, ethnicities, cultures, and countries. Cultural and religious teachings often influence beliefs about the origins and nature of mental illness, and shape attitudes towards the mentally ill. The fictional portrayal of people with mental illness in cinema and television is often misleading and stigmatizing. Beliefs about mental illness can affect a person's willingness to seek and adhere to treatment.

One in five Americans experience mental illness in some form throughout their lives. Many go on to achieve extraordinary success, despite their mental illness. Some notable celebrities with mental illness diagnoses include, Demi Lovato, Steve Young, and Leonardo DiCaprio.

### **Learning Objective 10: You will define “mental illness stigma.”**

Mental illness stigma is defined by uniteforsight.org as the “devaluing, disgracing, and disfavoring by the general public of individuals with mental illnesses.” Stigma often leads to discrimination, wrongful treatment of individuals, and the denial of rights for those with mental illness.

#### **Instructor Note**

The mental illness of Demi Lovato and Steve Young is anxiety disorder and Leonardo DiCaprio has Obsessive Compulsive Disorder (OCD).

#### **Instructor Note**

Discuss the various stigmas surrounding mental illness.

Common misconceptions surrounding the mentally ill community perpetuate stigma. Some misconceptions are:

- A person who has had a mental illness will always have a mental illness

People with mental illnesses can, and do, recover to resume normal activities. This is why, as a correctional employee, it is important to provide access to treatment, and rehabilitative PSAs.

- Mentally ill people are dangerous

The majority of people with a mental illness are not violent. In cases when violence does occur, the incident typically results from the same reasons as with the general public, such as feeling threatened, feeling frustrated, misunderstood, not heard, or excessive use of alcohol or drugs. In circumstances where a potential threat is present, utilize your communication skills to de-escalate the situation.

- People with mental illnesses can work low-level jobs, but are not suited for really important or responsible positions

People with mental illnesses, like everyone else, have the potential to work at any level depending on their own abilities, experience, and motivation. By encouraging inmates, and accommodating their disability or mental health concerns, you can assist them in realizing their potential.

You can combat stigma by responding to false statements about mental illness or people with mental illness. Many people have damaging ideas on the subject and by providing accurate facts and information may help change their ideas and actions.

## X. LEARNING DISABILITIES

### Section Time

10 minutes

The Learning Disabilities Association of America states learning disabilities are due to genetic or neurological factors that alter brain functioning in a manner which affects one or more cognitive processes related to learning.

### Slides

10.0-10.1

These processing problems can interfere with learning basic skills such as reading, writing, or math.

Learning disabilities should not be confused with learning problems, which are primarily the result of visual, hearing, motor impairment, intellectual disability, emotional disturbance, environmental, cultural, or economic disadvantages. A learning problem does not affect general intelligence, whereas a learning disability is linked to an overall cognitive impairment.

Generally speaking, people with learning disabilities are of average or above average intelligence. There often appears to be a gap between the individual's potential and actual achievement. This is why learning disabilities are referred to as "hidden disabilities." The person may be very bright and intelligent, yet may be unable to demonstrate the skill level expected from someone of a similar age.

### Slides

10.2-10.5

### **Learning Objective 11: You will identify specific learning disabilities.**

"Learning disability" is a term that describes a number of other, more specific disabilities. The following specific disabilities are considered "learning disabilities:"

- **Dyslexia**

A learning disorder that involves difficulty reading due to problems identifying speech sounds and learning how they relate to letters and words. Dyslexia affects areas of the brain that process language.

- **Auditory Processing Disorder (APD)**

This condition adversely affects how sound, that travels unimpeded through the ear, is processed or interpreted

Slides 10.6-10.9
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by the brain. Individuals with APD do not recognize subtle differences between sounds and words.

- Dyscalculia

This condition affects a person's ability to understand numbers and learn math facts.

- Dysgraphia

This condition affects a person's handwriting ability and fine motor skills. For individuals suffering from Dysgraphia, writing and thinking at the same time may be difficult.

- Language processing disorder

This condition makes it difficult to attach meaning to sound groups that form words, sentences, and stories. A language processing disorder relates only to the processing of language, not the sounds of the words.

When language is expressive, the person may have difficulty expressing their thoughts. When language is receptive, the person may have difficulty understanding what others are saying or to follow a conversation.

- Non-verbal learning disabilities

Typically, a person with a non-verbal learning disability may have difficulty interpreting non-verbal cues like facial expressions or body language, and may have poor coordination.

- Visual perceptual/visual motor deficit

This is a disorder that affects the understanding of information that a person sees, or the inability to draw or copy. This disorder can result in seeing subtle differences in shapes or printed letters, which causes them to lose their place frequently, hold their pencil too tightly, or have poor hand or eye coordination.

Slide  
10.10

### **Verified vs. unverified learning disability**

Inmates can submit a CDCR Form 1824, Reasonable Accommodation Request, to allege the existence of a learning disability. An education representative will review the inmate's school records to determine if the inmate has any documented learning disabilities or accommodations in their past. If education determines, based on the record, that the inmate has a learning disability, the inmate will be considered learning disabled-verified. If there is no record of a learning disability, the inmate will be considered learning disabled-unverified. In this instance, accommodations will be provided in an education setting.

Slides  
10.11-10.12

### **Accommodations**

Inmates with a learning disability are provided individual accommodations in an education setting, based on their needs. Education accommodations include, but are not limited to:

- Tutoring
- Additional time for completing assignments or tasks
- Inmate peer note-takers
- Inmate peer tutors
- Assistance with proofreading written workflow or assignments
- Use of calculator, dictionary, or thesaurus
- Extended time to take exams (one-half to double normal time allotted)
- Take exams in a quiet room with reduced distractions
- Oral exam
- Scratch paper
- Book stands

Slides  
10.13-10.14

Outside the education area, staff are required to ensure EC is established and documented during due process events if the inmate's learning disability is verified. Some ways to achieve EC are:

- Reading the document aloud
- Giving additional time
- Rephrasing
- Using simple English

Remember, there are a multitude of learning disabilities that affect society as well as the inmate population. By understanding these learning disabilities, you may be able to recognize the abundance of challenges an inmate with a learning disability faces. Learning disabilities can have a drastic impact on the rehabilitative process and your role in providing access to PSAs is vital to their success.

**Instructor Note**

Refer to the  
Appendix for  
Memo on slide  
10.14.



## XI. CODE OF SILENCE

### Section Time

15 minutes

### Slides

11.0-11.2

There is absolutely no tolerance for embracing the Code of Silence.

### A. Definition of the Code of Silence

#### **Learning Objective 12: You will identify the meaning of the Code of Silence.**

The Code of Silence is a condition in effect when a person opts to withhold what is believed to be vital or important information either voluntarily or involuntarily. The Code of Silence is a practice by groups in which improper conduct is deliberately concealed to avoid consequences.

The Code of Silence is an intentional failure to report misconduct by another employee. The Code of Silence can be associated with any organization, culture, and place in the world. In most American cultures, it begins when we are taught as children that “silence is golden,” and family matters are private.

Applied to law enforcement, the Code of Silence is an unspoken rule where two or more staff lend a blind eye, deaf ear, and a mute tongue to unethical, immoral, or improper actions.

### Slide

11.3

### B. Zero Tolerance

CDCR enforces the zero tolerance policy for the Code of Silence. Naturally, we want to support and protect each other, but consider the following:

- If you really want to protect others, you should help create an environment where everyone knows that unethical or illegal acts will not be tolerated
- Ignorance is not an excuse
- Participation in the Code of Silence has consequences and will be dealt with appropriately

### Instructor Note

Refer to the DOM Discipline Matrix to indicate how participation will be dealt with.

Slide

11.4

### **C. Influences**

The mindset of those involved in the Code of Silence is usually “us vs. them.” Our behavior may often be influenced by:

- Group decisions
- Peer or co-worker pressure
- Circumstances
- People
- Our surroundings
- Leaders
- People we respect

Slide

11.5

### **D. Cameras**

Staff will be more identifiable with the introduction of body cameras worn by custody staff. This will assist all correctional staff by accurately recording events in real time and provide documentation of an incident.

Cameras assist in preventing the Code of Silence by providing the ability to watch an encounter as it happened, rather than by secondhand accounts of the incident that may not even be accurate or reported. If misconduct is suspected, part of the review inquiry will involve an investigation into whether or not witnesses properly reported what they saw.

Slide

11.6

### **E. Intervention of Unethical Behavior**

When you act unprofessional or engage in unethical behavior, your actions not only discredit yourself, but also reflects on CDCR and all CDCR employees. It also violates the public trust placed in the Department. Peace officers are public service employees who are held to a heightened level of ethical and professional responsibility. The public expects integrity and honesty from all correctional staff.

As a CDCR employee, including medical and mental health staff, you must address or intervene if another employee exhibits unacceptable or unethical behavior. It may be necessary to intervene immediately, either verbally or physically. You are equally obligated to report misconduct. Medical and mental health staff have a further obligation to provide adequate care to inmate patients, despite pressure from staff.

Slides

11.7-11.8

## F. Reporting Misconduct

Responsible reporting is doing the right thing. Not only is it the right thing, it is required. Failure to do so can result in progressive discipline, which may include termination. If you are aware that something is wrong, you are responsible to report it, regardless of who is involved. Your loyalty is to your principles and values, CDCR, and the public; not to the situation.

If you have knowledge of misconduct, you are obligated to disclose that information to a supervisor. You can notify a supervisor in person or in writing.

Additionally, you can report misconduct by calling:

- Office of Internal Affairs (OIA) Headquarters:  
(916) 255-1300
- Bureau of State Audits: (800) 952-5665
- Office of the Inspector General (OIG):  
(800) 447-8477
- State Personnel Board (SPB): (916) 653-0799

**Learning Objective 13: You will identify where the consequences for not reporting misconduct are located.**

**Slides**

11.9-11.12

Any participation in the Code of Silence is grounds for adverse action. The consequences for failing to report misconduct are located and addressed in the following sections of DOM, Chapter 3, Article 22:

- Section 33030.16, Employee Disciplinary Matrix Penalty Levels
- Section 33030.17, Applying the Employee Disciplinary Matrix
- Section 33030.19, Employee Disciplinary Matrix (B) Code of Silence or Retaliation

The Employee Disciplinary Matrix Penalty Levels are:

1. Official reprimand
2. Suspension without pay for 1 to 2 work days
3. Salary reduction of 5 percent for 3 to 12 months or suspension without pay for 3 to 12 work days
4. Salary reduction of 10 percent for 3 to 12 months or suspension without pay for 6 to 24 work days
5. Salary reduction of 5 percent for 13 to 36 months or suspension without pay for 13 to 36 work days
6. Salary reduction of 10 percent for 13 to 24 months or suspension without pay for 26 to 48 work days
7. Suspension without pay for 49 to 60 work days
8. Demotion to a lower class
9. Dismissal

**Slides**

11.13-11.14

**G. Whistleblower Protection Act**

A whistleblower is an employee who discloses information to a government or law enforcement agency, person with authority over the employee, or to another employee with authority to investigate, discover, or correct the violation or noncompliance, or who provides information to or testifies before a public body conducting an investigation, hearing or inquiry,

where the employee has a reasonable cause to believe that the information discloses:

- A violation of a state or federal statute
- A violation or noncompliance with a local, state, or federal rule or regulation
- With reference to employee health or safety including, unsafe working conditions or work practices in the employee's employment or place of employment

A whistleblower can also be an employee who refuses to participate in an activity that would result in a violation of a state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

Slides

11.15-11.16

#### **H. Protections Afforded to Whistleblowers**

Whistleblowers are afforded certain protections.

Employers may not:

- Make, adopt, or enforce any rule, regulation, or policy preventing an employee from being a whistleblower
- Retaliate against an employee who is a whistleblower
- Retaliate against an employee for refusing to participate in an activity that would result in a violation of a state or federal statute, or a violation or noncompliance with a state or federal rule or regulation
- Retaliate against an employee for having exercised their rights as a whistleblower in any former employment

Per Government Code (GC) Sections 8547 through 8547.9, the California Whistleblower Protection Act states the California State Auditor shall have the

authority to conduct an investigation and report complaints about improper governmental activities, and protects every State employee who files a complaint from suffering any retaliation by their state employer for having made the complaint. The Whistleblower Protection Act forbids every State official and employee from retaliating or attempting to retaliate against any employee or applicant for employment who reports any improper activity.

Employees can report improper activities to a supervisor or the California State Attorney General's Whistleblower Hotline at 1-800-952-5225.

DOM Section 31140.10, Reporting Misconduct and Protecting Employees from Retaliation, states, "To encourage and protect employees that confront and report serious misconduct, the Department has strengthened its policies and procedures to provide additional protections beyond those included in the California Whistleblower Act (Government Code section 8547 et seq.) and other California statutes. The reporting of misconduct process and the protection offered by the Department are detailed in the Department's 'Policy and Procedure for Reporting Serious Misconduct and Protecting Employees from Retaliation.' The procedures may be obtained by contacting the Office of Internal Affairs (OIA)."



## XII. USE OF FORCE

<b>Section Time</b> 2 minutes
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Slides 12.0-12.2
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When time and circumstances permit, staff must take into account the consideration of an inmate's disability and ensure EC is established prior to the use of force involving an inmate with a disability.

### **Controlled use of force**

Staff must be aware of the chemical agent limits during controlled use of force. If chemical agents are not effective in their recommended volume usage, it is highly probable they will not be effective by deploying more.

- MK-9 OC Vapor - single burst of 1-3 seconds, 2 applications max
- MK-9 OC Fogger - single burst of 1-5 seconds, 4 applications max
- MK-9 OC Foam - single burst of 1-5 seconds, 4 applications max
- OC Vapor Grenade - 2 devices max
- OC Flameless Expulsion Grenade - 2 devices max
- X-10 Barricade Removal Device – 1-5 seconds burst, 4 applications max
- X-10 is not to be used solely for the purpose of delivering OC

OC may be deployed during the removal of a barricade with the X-10.

- 4 Total Applications

### XIII. INMATE RIGHTS

#### Section Time

5 minutes

#### Slides

13.0-13.1

#### A. Rights of the Confined

Federal and state laws govern the establishment and administration of institutions, and the rights of the inmates.

Inmates have rights and privileges that cannot be denied without due process. Throughout history, denial of basic human rights has resulted in serious consequences. Basic human rights for inmates include things such as food, clothes, shower, a toilet, exercise, etc.

Although inmates do not have the exact same rights as non-incarcerated people, the Eighth Amendment prohibits “cruel and unusual punishment,” which applies to convicted criminals. This protection requires that inmates be afforded a minimum standard of living.

The Equal Protection Clause of the 14th Amendment has been held to apply to inmates. Inmates are protected against unequal treatment.

#### Slides

13.2-13.4

#### B. Consequences of Violating Inmate Rights

When staff violate the rights of an inmate, not only do they face consequences that may arise from inmates or progressive discipline, they also may be personally liable for any civil damages.

**Learning Objective 14: You will identify consequences that arise if inmate rights are violated.**

Consequences of violating inmate rights include:

- Compromising institutional security
- An unsafe and unstable work environment
- Increased tension between staff and inmates
- Inmate unrest and the potential for violence
- Loss of life and property

- Discrediting of the Department
- Negative media attention
- Increases in inmate appeals and lawsuits
- Fine or removal from office for staff who violate inmates' rights

#### XIV. ETHICS AND PROFESSIONALISM

<p><b>Section Time</b></p> <p>10 minutes</p>
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<p>Slides</p> <p>14.0-14.2</p> <p><b>Instructor Note</b></p> <p>Play video on slide 14.2 "Respect"</p> <p>5:11 minutes</p>
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<p>Slide</p> <p>14.3</p>
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<p>Slides</p> <p>14.4-14.5</p>
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The reputation of CDCR and the public's trust depends on the personal integrity of every CDCR employee. The Department has zero tolerance for unethical behavior or participation in any form of the Code of Silence. Any participation in the Code of Silence will be addressed with corrective action in accordance with CDCR's Employee Discipline Matrix.

Correctional staff are faced with decisions on a daily basis. CDCR has adopted an ethical decision-making model to assist in making decisions. Decisions, conduct, and behavior within the correctional environment must always be founded on what is right, what is just, and what is ethical.

##### A. Ethics

Correctional staff must adhere to a code of ethics and professional conduct, which is a set of standards pertaining to the morals and the effective discharge of duties. It embodies core values such as discipline, judiciousness, truthfulness, vigilance, respect for human rights, and sense of responsibility.

##### B. Eight-Step Ethical Decision-Making Model

**Learning Objective 15: You will identify the eight steps of CDCR's ethical decision-making model.**

The eight steps of the ethical decision-making model are:

1. Think ahead
2. Clarify goals
3. Gather facts
4. Consider the consequences
5. Determine ethical and moral issues
6. Determine fiscal impact
7. Decide

Slides 14.6-14.8
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## 8. Monitor and adjust

### C. Ethical Decision-Making Questions

We make decisions multiple times each day. When making ethical decisions, ask these four questions:

1. Could someone suffer physical harm?
2. Could someone suffer emotional pain?
3. Could the decision hurt my reputation, undermine my credibility, or damage relationships?
4. Could the decision impede the achievement of an important goal?

Good decisions are both ethical and effective.

Ethical decisions:

- Generate and sustain trust
- Demonstrate respect, responsibility, fairness, and caring
- Are consistent with good citizenship

Inmates are people and, as such, are valuable and entitled to be treated with respect and dignity. They are not to be viewed as less than, solely because they are incarcerated.

Regardless of how anyone personally feels, CDCR expects professionalism and respect towards inmates. Staff should always communicate respectfully, and avoid harassing and using derogatory language towards inmates based on disability, race, and identity. There is zero tolerance for such behavior.

Slides 14.9-14.10 <b>Instructor Note</b> Play video on slide 14.10 "Becoming a Leader" 17 seconds
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### D. Professionalism

Staff should never foster an environment where it is acceptable to make fun of or use derogatory terms to describe inmates with mental illness, or any other disability.

All reports of suicide must be taken seriously, and Departmental policy adhered to.



**XV. CONCLUSION**

<b>Section Time</b> 1 minute
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Slides 15.0-15.1
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Often, people do not understand the experiences and feelings of persons with disabilities. Some people even feel stress about the “appropriate way” to interact with individuals with disabilities. Remember, individuals with disabilities wish to be treated the same as everyone else.

Education is the greatest way to expose common misconceptions and create an inclusive way of thinking, as well as fair and consistent treatment of all inmates. By creating a community of acceptance, staff and inmates can bridge cultural gaps.

As a correctional employee, you are obligated to assist and protect the disabled population. Thus, providing equal opportunity for all inmates to pursue rehabilitation.

**GLOSSARY**

<b>Word</b>	<b>Definition</b>
<b>ADHD</b>	Attention deficit hyperactivity disorder
<b>APD</b>	Auditory Processing Disorder
<b>DDP</b>	Developmental Disability Program
<b>DOM</b>	Department Operations and Manual
<b>DPV</b>	DPV is a disability code.
<b>EC</b>	Effective communication
<b>MHSDS</b>	Mental Health Services Delivery System
<b>OCD</b>	Obsessive compulsive disorder
<b>OIA</b>	Office of Internal Affairs
<b>OIG</b>	Office of Inspector General
<b>PSAs</b>	Programs, services, and activities
<b>PTSD</b>	Posttraumatic stress disorder
<b>SLI</b>	Sign language interpreter
<b>SOMS</b>	Strategic Offender Management System
<b>SPB</b>	State Personnel Board
<b>TBI</b>	Traumatic brain injury

## **RESOURCES**

- 1) Deaf Education: Global Perspectives.  
<http://deafeducationworldwide.weebly.com/stereotypes-and-misconceptions-about-deaf-people.html> Accessed 01/05/2021.
- 2) Iowa Department for the Blind. <https://blind.iowa.gov/> Accessed 01/07/2021
- 3) National Alliance on Mental Illness. <https://www.nami.org/learn-more/mental-health-conditions> Accessed 01/07/2021
- 4) Unite for Sight, Inc. <http://www.uniteforsight.org/> Accessed 01/07/2021.
- 5) Learning Disabilities Association of America. <https://ldaamerica.org/types-of-learning-disabilities/> Accessed 01/14/2021.

## **REFERENCES**

- 1) California Department of Corrections and Rehabilitation, Department Operations Manual, Chapter 3, Article 22, Sections 33030.16, 33030.17, 33030.19, 31140.10, and 84070.5
- 2) California Government Code, Sections 8547-8547.9
- 3) United States Code, Title 42, Sections 12101-12213

**APPENDIX**

Meeting the Learning Needs of Inmate Students Memorandum

State of California

Department of Corrections and Rehabilitation

## Memorandum

Date : March 7, 2018

To : Associate Directors, Division of Adult Institutions  
Wardens  
PrincipalsSubject: **MEETING THE LEARNING NEEDS OF INMATE-STUDENTS**

The California Department of Corrections and Rehabilitation (CDCR) is committed to providing high quality educational programs. It is the goal of CDCR to prepare inmates for successful release into the community. An important means to meet this goal is through the provision of education rehabilitative programs. This memorandum provides information and clarification with regards to inmates with learning disabilities (LDs), and includes standards for verifying, documenting, and providing accommodations for inmates with diagnosed and verified LDs in education classes. This memorandum also provides direction on how to accommodate inmate-students in education classes for whom CDCR is unable to verify a LD diagnosis.

### **Assignment to Education Programs**

CDCR provides inmates a range of rehabilitative programs to prepare them for release into the community, including, but not limited to, completion of a High School Diploma (HSD) or its equivalent, Career Technical Education (CTE) certification, and Transitions courses. Assignments to Education Programs are based on a review of the inmate's risk to reoffend using the California Static Risk Assessment (CSRA), rehabilitative needs as identified by the Correctional Offender Management Profiling Alternative Sanctions (COMPAS), and educational history. Based on the CSRA, COMPAS, and a review of the inmate casework, a Rehabilitative Case Plan (RCP) is provided. The Classification Committee utilizes the RCP to place inmates on the appropriate educational waiting lists, in accordance with CDCR policies, procedures, and priorities. If an inmate disagrees with the Classification Committee action, he/she may appeal the decision.

### **Inmates Assigned or Enrolled in Education Program(s)**

Upon assignment to an Education Program, teachers shall review the Strategic Offender Management System (SOMS) and Electronic Records Management System (ERMS) for inmate-students and complete the following:

- Review offender assessments (standardized test scores, Disability Placement Program [DPP] disability summary, and certificates/diplomas awarded).
- Schedule pre-test assessments, as needed.



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- Review the inmate-student's previous assignment history.
- Review the inmate-student's education history and, if none exists, obtain the inmate-student's relevant personal and educational history so that a transcript and relevant IEP records can be requested.
- Establish a Curriculum Progress Record for the inmate-student.

In Education classes, an individualized course of study is provided for inmate-students, based on the College and Career Readiness Standards for Adult Basic Education, High School Equivalency and HSD classes, and the competency modules for CTE Programs. Mastery of the standards or modules are recorded on the Curriculum Progress Records. The inmate-student's progress is recorded quarterly on the Education Progress Reports (EPRs). Thorough evaluations of an inmate-student's progress as a student, including the documentation of accommodations provided to facilitate success in the program, are to be noted on the EPRs. If an inmate-student is having difficulty learning in an education class, the inmate-student is to be encouraged to enroll in the Voluntary Education Program (VEP) for individualized tutoring or assistance with assignments, in addition to his or her current educational assignment.

#### **Definition of LD**

LDs, sometimes referred to as "Specific Learning Disorders," are life-long, neurological disabilities that affect information processing. They may affect how a person learns, understands, communicates, and remembers information. Individuals with LDs have average intelligence, and are not to be confused with individuals with developmental disabilities, intellectual disabilities, attention, hyperactive, and emotional disorders, or cognitive dysfunctions. Examples of LDs include Dyslexia and Dyscalculia. A Test of Adult Basic Education (TABE) score of 4.0 and under may also be, but is not always, an indicator that an inmate may have a LD.

Adults who have LDs can experience great success in all aspects of life when using their strengths in conjunction with the strategies, accommodations, and technology that are most appropriate and effective for their individual needs in the educational environment.

#### **LD Verification Process**

While LDs are a recognized disability under the Americans with Disabilities Act (ADA) of 1990, CDCR is not required to test for LDs, and does not test for them.

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CDCR will recognize any of the below as a legitimate LD verification.

- A diagnosis of a LD from any of the following:
  - A licensed psychologist
  - A credentialed school psychologist
  - A licensed educational psychologist
  - A school-based Individualized Education Plan (IEP) team
- A Probation Officer's Report in which the Probation Officer verified a specific LD with the inmate-student's school district or school transcript from an accredited public or private school that documents special education classes/services that also reflect an IEP denoting a specific LD. (Note: Because some special education assignments are based on disorders other than LDs, it is required that special education records denote a specific LD in order to designate an inmate-student as having a verified LD.)

The Principal or designee shall review SOMS and ERMS for verification of a LD. If the inmate-student's alleged LD cannot be verified through SOMS and ERMS, the Principal or designee shall attempt to obtain relevant historical transcripts and special education records from the school district the inmate-student attended or claims to have attended. The inmate may also provide the Principal with documentation of a specific LD as noted on an IEP or 504 Plan.

If the Principal or designee receives education records or other legitimate source documents that verify a LD, the Principal or designee shall issue a CDC-128B, *General Chrono*, identifying the inmate-student as having a verified LD, and document the reasonable accommodation(s) the inmate-student shall be provided in the educational setting.

#### **CDCR 1824 Reasonable Accommodation Request Process**

Inmates who believe they have a LD that has not been verified may submit a CDCR Form 1824, *Reasonable Modification or Accommodation Request*, requesting verification and/or accommodations for LD. The Principal will follow procedures outlined within this memorandum, and shall coordinate the response to the inmate through the Reasonable Accommodation Panel.

If an inmate-student reports a LD that cannot be verified, and the Principal or designee believes the inmate would benefit from accommodation(s) to achieve his/her learning goals, a CDC-128B shall be completed to document the reasonable accommodation(s) to be provided to that inmate-student in the educational setting, and shall indicate that the LD is unverified. The CDC-128B will be approved by the Principal and forwarded to the ADA Office for entry into SOMS.

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These CDC-128Bs chronos will be available for any CDCR staff to review in order to understand and accommodate the educational support needs of the inmate-student. The information in the CDC-128B chrono will be tracked electronically in SOMS by the ADA Office, and can be found in SOMS by entering the inmate-student's CDC number > Offender > Offender Assessments > DPP Disabilities/Accommodations. Once in this location, staff can locate Learning Disability Chronos and review the accommodation needs through the corresponding hyperlink. Attached to this memorandum are sample CDC-128Bs for the Principal or designee to use in documenting a verified and/or unverified LD and accommodation(s) provided. The Principal shall grant reasonable accommodation(s) or disapprove requested accommodations based upon the inmate-student's individual needs and the provisions outlined in the *Armstrong* Remedial Plan, or the *Clark* Remedial Plan, as appropriate.

Any accommodation(s) granted to inmate-students without a verified LD do not constitute an acknowledgment by CDCR that the inmate has a LD.

If an inmate has a verified LD, the entry next to Learning Disability will be "Yes." If the inmate does not have a verified LD, but claims to have one, the entry next to Learning Disability will be "Unverified."

#### **Accommodation and Support Examples**

Educational staff will determine the appropriate accommodations and supports for inmate-students. The following are examples of accommodations and supports that may be used in education classes or testing environment for inmates who need accommodation(s) based on their verified LDs or other educational support needs:

- Tutoring in the VEP
- Additional time to complete assignments
- Inmate peer note-takers
- Inmate peer tutors
- 1-2 step repeated instructions
- Assistance with reading/writing
- Provide feedback and assist inmate in planning workflow of assignments
- Break larger assignments into smaller components with opportunities for draft feedback
- Provide assistance with proofreading written work
- Cloze reading strategies (Cloze reading is an instructional strategy where users are required to fill in the blanks within a passage with correct words from a word bank.)
- Individualization/differentiation of instruction tailored to learning needs
- Multi-modality instructional strategies
- Use of calculator, dictionary, or thesaurus



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- Computer-aided instruction
- Assistance from the DPP Teacher (at prisons that have those resources)
- Highlighter pen
- Assistance of a reader, scribe, or word processor

#### **Informal (Formative and Summative) Assessments**

- Extend time (one-half to double normal time allotted)
- Take exams in a quiet room with reduced distractions
- Oral exam
- Scratch paper
- Book stands

#### **Accommodations and Standardized Testing Documentation Requirements**

The provision of accommodations for standardized testing environments typically requires a higher threshold of LD documentation in order for an accommodation to be provided. For these tests, an application is submitted to the test publisher for an accommodation and the publisher decides if, in their sole judgement, a testing accommodation is warranted.

Some standardized tests used in CDCR include, but are not limited to, the TABE, Comprehensive Adult Student Assessment System, General Education Development, HiSET, and Certification tests. Inmate-students may submit an accommodation request to the Testing Coordinator (TC). The TC will forward the request to the test publisher for approval. Inmates using the accommodation request form may be required to attach and provide substantiation of a verified disability requiring accommodations within a standardized test.

Inmate-students who have a verified LD may require assistance in requesting testing accommodations. Education staff shall assist inmate-students who request assistance, based on a verified LD, through the process of requesting testing accommodations from the test publisher. The publishers of standardized tests are responsible for deciding whether or not to grant an accommodation request. Any inmate may make a request for testing accommodations.

#### **Alternative Pathways**

If an inmate-student does not make the educationally-expected progress on the standards/competencies, and has not made the educationally-expected progress on the formative, summative, and standardized assessments, the inmate-student may submit a request to his/her correctional counselor via a CDCR 22, *Inmate/Parolee Request for Interview, Item, or Service*, to be removed from the class and to be placed in an alternative assignment. In addition, teachers may initiate a CDC-128B

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documenting the inmate-student's educational and test history, performance in class, conduct issues, etc., and make a recommendation to the classification committee regarding whether the inmate-student should be removed from the class based on the inmate-student's history of participation and performance in class.

The classification committee shall review the requests and, if approved, the Inmate Assignment Office may unassign an inmate-student from the class, and reassign them to an alternate academic or CTE training or employment assignment, in accordance with Department policy. There is no minimum grade level requirement for assignment to CTE, nor does having a LD preclude assignment to a CTE class. The decision to assign an inmate-student to a CTE class is made on a case-by-case basis by the Classification Committee.

If you have any questions regarding this memorandum, please contact Hillary Iserman, Deputy Superintendent (A), Office of Correctional Education, at (916) 545-0599 or [Hillary.Iserman@cdcr.ca.gov](mailto:Hillary.Iserman@cdcr.ca.gov).



BRANT R. CHOATE, Ed.D.  
Director  
Division of Rehabilitative Programs



KATHLEEN ALLISON  
Director  
Division of Adult Institutions

Attachments

cc: Kevin Hoffman  
Ryan Souza  
Jeff Macomber  
Connie Gipson  
Kelly Mitchell  
Shannon Swain  
Hillary Iserman  
Associate Superintendents  
Vice Principals

California Department of Corrections and Rehabilitation

CDC 128B

Inmate \_\_\_\_\_ CDCR# \_\_\_\_\_ Housing \_\_\_\_\_

Inmate \_\_\_\_\_ CDCR# \_\_\_\_\_ has been identified as having a Specific Learning Disability (LD), based on the following:

1. Diagnosis from:

- A licensed psychologist
- A credentialed school psychologist
- A licensed educational psychologist
- A school-based Individualized Education Plan (IEP)

2. Educational Records reflecting:

- Participation in Special Education classes/services (denoting specific learning disability)
- Participation in Section 504 classes/services (denoting specific learning disabilities)
- Learning Disability Verification in Probation Officer's Report to Sentencing Court

As such, he/she should be designated as Learning Disabled (LD) and provided the following non-formulary accommodations in Education:

- Recommend inmate enroll in the Voluntary Education Program for Tutoring
- Place in close proximity in the classroom, to the teacher
- Additional time to complete assignments
- Use 1-2 step instructions
- Peer note-takers or note-taking assistance
- Use of dictionary/thesaurus/computer-aided instruction
- Individualized instruction tailored to learning needs
- Non-standardized test accommodations e.g., calculator, oral tests, notes, etc.
- Other: \_\_\_\_\_

\_\_\_\_\_  
Principal (Print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

cc: Central File  
ADA Coordinator  
Correctional Counselor I  
Teacher  
Inmate

Date: \_\_\_\_\_

GENERAL CHRONO: LEARNING DISABLED

Institution \_\_\_\_\_

California Department of Corrections and Rehabilitation, General Chrono re unverified Learning Disability

CDC 128B

Inmate \_\_\_\_\_ CDCR# \_\_\_\_\_ Housing \_\_\_\_\_

Inmate \_\_\_\_\_ CDCR# \_\_\_\_\_ claims to have been in Special Education and to have a Specific Learning Disability (LD). Inmate has not provided documentation/substantiation to support such LD claims. The Education Office requested a copy of the inmate Special Education Records from \_\_\_\_\_, and searched appropriate source documents; however, no records were available to verify a LD.

As such, he/she should be designated as "Unverified" under the Learning Disabled (LD) status within SOMs.

In order to assist the inmate, non-formulary accommodations to be provided to the inmate in Education are as follows:

- Recommend inmate enroll in the Voluntary Education Program for Tutoring
- Place in close proximity in the classroom, to the teacher
- Additional time to complete assignments
- Use 1-2 step instructions
- Peer note-takers or note-taking assistance
- Use of dictionary/thesaurus/computer-aided instruction
- Individualized instruction tailored to learning needs
- Non-standardized test accommodations i.e. calculator, oral tests, notes, etc.
- Other: \_\_\_\_\_

\_\_\_\_\_  
Principal (Print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

cc: Central File  
ADA Coordinator  
Correctional Counselor I  
Teacher  
Inmate

Date: \_\_\_\_\_

GENERAL CHRONO: LEARNING DISABLED

Institution \_\_\_\_\_



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**Subject:** FW: MEMORANDUM: Meeting the Learning Needs of Inmate-Students  
**Attachments:** 2018.03.07 Meeting the Learning Needs of Inmate-Students Memorandum.pdf  
**Importance:** High

---

**From:** Arevalo-Parrish, Nick R@CDCR  
**Sent:** Wednesday, March 07, 2018 10:23 AM  
**Subject:** MEMORANDUM: Meeting the Learning Needs of Inmate-Students  
**Importance:** High

SENT ON BEHALF OF  
BRANT R. CHOATE, Ed.D., DIRECTOR  
DIVISION OF REHABILITATIVE PROGRAMS

*and*

KATHLEEN ALLISON, DIRECTOR  
DIVISION OF ADULT INSTITUTIONS

*\*\*To minimize the amount of "reply-all" responses to this email, recipients have been Bcc'd.\*\**

---

**TO:** Associate Directors, Wardens, and Principals  
**CC:** Kevin Hoffman, Ryan Souza, Jeff Macomber, Connie Gipson, Shannon Swain, Hillary Iserman, Associate Superintendents, and Vice Principals

***Good Morning, All*** – please see the attached memorandum regarding *Meeting the Learning Needs of Inmate-Students*, and forward this on to your staff, as appropriate, to ensure awareness.

If you have any questions regarding the memorandum, please contact Hillary Iserman, Deputy Superintendent (A), Office of Correctional Education, at (916) 545-0599 or [hillary.iserman@cdcr.ca.gov](mailto:hillary.iserman@cdcr.ca.gov).

Thank you.

# **EXHIBIT 13**

**California Department of  
Corrections and Rehabilitation  
Basic Correctional Officer Academy (BCOA)**



**Disability Culture**

*Version 1.0*

BET ID: **1105XXXX**

# CONTENTS

Signature Sheet **1**

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Lesson Cover Sheet **2**

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Instructor Notes/Text **3**

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Participant Workbook **4**

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Instructional Aids **5**

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# BASIC CORRECTIONAL OFFICER ACADEMY

## Disability Culture

Version 1.0

Signature Sheet

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Date Approved

---

 , Academy Administrator  
*Correctional Training Center*

## CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION



# LESSON COVER SHEET

## OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

<b>Title of course curricula: BASIC CORRECTIONAL OFFICER ACADEMY (BCOA)</b>	
<b>Title of lesson: DISABILITY CULTURE</b>	
<b>Developer:</b> [REDACTED]	<b>Last updated by:</b> N/A
<b>BET ID:</b> 1105XXXX	<b>Modification date:</b> N/A
<b>Length of presentation:</b> 1 hour	<b>Date OTPD approved:</b> MM/YYYY
<b>Recommended maximum number of participants:</b> 40	<b>Recommended number of instructors:</b> 1
<b>Classroom/facility equipment requirements:</b> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Make sure all details for the lesson are arranged; i.e., classroom, multimedia equipment, etc.</li> <li><input checked="" type="checkbox"/> Classroom/facility equipped with computer, projector/projector screen, speakers</li> <li><input type="checkbox"/> Television</li> <li><input checked="" type="checkbox"/> Whiteboard, tear sheets</li> <li><input type="checkbox"/> Other</li> </ul>	<b>Instructional materials/resources:</b> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Instructor text and notes</li> <li><input checked="" type="checkbox"/> Participant workbooks</li> <li><input checked="" type="checkbox"/> Presentation slides/videos</li> <li><input type="checkbox"/> Performance measures:</li> <li><input checked="" type="checkbox"/> Knowledge review</li> <li><input type="checkbox"/> Appendix materials</li> <li><input type="checkbox"/> Miscellaneous:</li> </ul>



OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

**NEED FOR LESSON**

Cadets must be aware of the subtle differences in communicating and interacting with disabled inmates. This training is designed to provide clarity on common misconceptions regarding the disabled population. By educating cadets, the California Department of Corrections and Rehabilitation (CDCR) will be more effective in providing an environment free of discrimination, and providing disabled inmates equal access to programs, services and activities.

It is the policy of the California Department of Corrections and Rehabilitation to provide access to its programs and services to inmates and parolees with disabilities, with or without reasonable accommodation, consistent with legitimate penological interests.

**INSTRUCTIONAL GOAL**

Cadets will understand their roles and responsibilities in communicating and interacting with disabled inmates.

**CORE TASKS**

- Communicate with disabled inmates
- Provide equal access to programs, services and activities
- Demonstrate an understanding of Disability Culture

<p><b>Target population</b> Basic Correctional Office Academy Cadets</p>	
<p><b>Instructor qualifications</b> Assigned instructors must have minimum of three years full-time institutional experience, and must have completed a basic training course in the techniques of training.</p>	
<p><b>Lesson prerequisites</b> Armstrong Overview</p>	<p><b>Lesson evaluation procedures</b> On file</p>
<p><b>Sequence of all lessons</b> On file (Scheduling determines sequence of classes)</p>	

OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

**SUBJECT MATTER EXPERTS**

- [REDACTED] Correctional Lieutenant, Class Action Management Unit (CAMU), Division of Adult Institutions (DAI)
- [REDACTED] Correctional Captain, Class Action Management Unit (CAMU), Division of Adult Institutions (DAI)

## OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

## LESSON COVER SHEET

<b>LEARNING OBJECTIVES</b>	<b>Page</b>	<b>Performance Measure</b>
1. You will define disability culture.	2	Knowledge Review
2. You will identify common misconceptions about wheelchair users and mobility impairment.	3	Knowledge Review
3. You will identify appropriate methods of interacting with a deaf person.	5	Knowledge Review
4. You will identify common myths about individuals with visual impairments.	10	Knowledge Review
5. You will identify common stereotypes related to people with developmental disabilities.	12	Knowledge Review
6. You will define mental illness stigma.	13	Knowledge Review
7. You will identify specific learning disabilities.	15	Knowledge Review

OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

**HISTORY**

<b>LESSON TITLE: DISABILITY CULTURE</b>			
<b>Date</b>	<b>Version No.</b>	<b>Designated Modifications</b>	<b>Authority Requesting Change</b>
09/2019 [REDACTED]	1.0	Lesson developed to replace Armstrong Custody Responsibilities lesson	Class Action Management Unit

OFFICE OF TRAINING AND PROFESSIONAL DEVELOPMENT

LESSON COVER SHEET

**STANDARD SAFETY PROVISIONS**

The following standard safety guidelines are intended to promote optimum protection for participants during instructor-led training in a classroom.

**Instructor Modeling**

It is the instructor's responsibility to model, initiate, and follow through on safety procedures and emergency protocol.

**Safety Information**

The instructor will provide participants with information on safety procedures and emergency protocol prior to the beginning of the lesson. This will include:

1. Location of emergency exits, fire extinguishers, first aid supplies, and communication devices (which will be clearly labeled and posted).
2. Person (supervisor and phone number/extension) to contact in the event of an emergency.

**Report Injuries Immediately**

Participants should report any injuries or illnesses to the instructor immediately. The instructor will have a formal process detailing actions to be taken if a participant is injured and/or loses consciousness. Injuries may be reviewed in order to determine cause. Injured/ill participants may be required to have a medical release to allow participation continuance.

**Emergency Response Procedures**

In the event that an injury occurs during this training, the following emergency response procedures will be followed by staff or participants as appropriate:

1. Respond to the injured staff.
2. Determine the initial type and extent of injury.
3. Call the watch desk for assistance.
4. Take appropriate first aid action.
5. Notify supervisor(s).
6. Complete required documentation.

**Clothing**

Participants' clothing and footwear shall conform to departmental policy guidelines.

**Restrooms and Drinking Water**

Participants will be made aware of the location of restrooms and drinking water.

**Conduct**

Participants are expected to follow instructions and conduct themselves in a professional manner at all times. If in doubt as to what to do, participants are encouraged to ask the instructor for further instructions, information, or clarification.

## INSTRUCTOR NOTES

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**Overview** The Disability Culture lesson provides cadets with basic information on disability culture, and how to optimize communication and interaction with disabled inmates. This class requires one instructor.

Review the learning objectives during the summary, prior to the knowledge review.

**Before the Lesson** Prior to presenting this lesson, it is strongly recommended that you do a dry run with the slides to ensure that the embedded videos are functioning.

Pace the presentation time according to the timing allotment of each section noted in the instructor text.

- Review the instructor guide and participant workbook to become familiar with the lesson content.
- Make sure all details for the lesson are arranged, i.e., classroom, multimedia equipment, etc.
- Write your name, title, and workplace on the whiteboard or tear sheet.

---

**Activity 1:****Sample Spelling  
Test****Instructor Note**

When playing videos, audio level should be set to hear no sound on the severe hearing loss simulation.

**Reference for Activity on page 4**

Prior to playing the videos on slides 4.2 – 4.4, instruct cadets to:

- Retrieve a sheet of paper
- Number 1-10
- Create three columns labeled severe, moderate, and mild.

Play the videos on slides 4.2 – 4.4. Cadets should follow the video and complete the 3 spelling tests. Upon completion of the tests, select cadets to state their answers.

Discuss the various challenges deaf and hearing impaired inmates may face in an institutional setting. (Alarms, announcements, verbal commands, etc.)

**Answer Key:**

1. Bath
  2. Pearl
  3. Sour
  4. Mouse
  5. Learn
  6. Wheat
  7. Vine
  8. Tape
  9. Hedge
  10. Nude
-



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## I. INTRODUCTION

### Section Time

20 minutes

### Slides

1.0-1.1

### A. Understanding Disability Culture

Training on disability culture is required at the time of initial assignment to prepare cadets for supervision of California Department of Corrections and Rehabilitation's (CDCR) vast disabled population. By understanding disability culture, cadets will have the ability to communicate and interact appropriately. Thus, fostering an environment that aligns with CDCR policy, and promoting an environment free of discrimination.

The Department Operations Manual (DOM), Section 84070.5, Americans with Disabilities Act Accommodations Policy for Remedial Sanctions states the following:

- CDCR shall provide reasonable accommodations or modifications for the known physical, developmental, or mental disabilities of qualified offenders.
- All State-sponsored programs shall provide reasonable accommodations in accordance with the Americans with Disabilities Act, *Armstrong v. Brown*, and the *Armstrong Remedial Plan*.

### Slide

1.2

### B. Video: "Changing The Way We Talk About Disability"

Amy Oulton is a 28 year old with Ehlers-Danlos syndrome, a connective tissue disorder. Ehlers-Danlos syndrome makes her joints weak and prone to dislocation. While she can walk short distances, it is difficult for her to leave the house without her wheelchair. In the video on the slide, Oulton explains how disabilities should be addressed by society.

## II. Disability Culture Overview

<b>Section Time</b>
---------------------

5 minutes
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<b>Slides</b>
---------------

2.0-2.3
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### **Learning Objective 1: You will define disability culture.**

Disability culture is the sum total of behaviors, beliefs, ways of living, and material objects that are unique to persons affected by disabilities. Individuals with disabilities share common experiences (e.g. special education, finding accessible housing, a job that will provide accommodations, etc.). Most people with disabilities do not have parents who are disabled. So, unlike other cultures, disability culture is not learned from parents. The culture is learned from other people with disabilities.

People with disabilities recognize that they share a similar, but unique history based on common perceptions about disability. Disabled people are protected from discrimination by law and CDCR policy. However, in order to truly recognize people for who they are, and not their disability, we must understand disability culture.

### III. Mobility Impairment

**Section Time**

5 minutes

**Slides**

3.0-3.2

**Slide**

3.3

**Learning Objective 2: You will identify common misconceptions about wheelchair users and mobility impairment.**

- Wheelchair users cannot walk at all  
Some wheelchair users may be immobile, but many simply have limited ability to walk, or find it easier to use the wheelchair for longer distances. Many with limited strength are still able to move themselves to other chairs.

To understand the severity an inmate's disability, reference the inmate's Developmental Disability Program (DDP)/Accommodation Summary in the Strategic Offender Management System (SOMS).

- Wheelchair users will not perform as well as non-wheelchair users on the job



Many wheelchair users have attended college. Some even possess bachelor's degrees, master's degrees, and postgraduate doctoral degrees

Although an inmate may have a physical disability, do not assume that they are "not smart." Additionally, CDCR will provide reasonable accommodations for all inmates, providing equal access to programs, services, and activities (PSAs).

Slide  
3.4

- Wheelchair users have mental impairments  
Some people with physical disabilities also have mental impairments, but many do not. It is inconsiderate to assume that someone in a wheelchair has mental disabilities or cannot speak for him or herself.

Reference the inmate's DPP Disability/Accommodation Summary in SOMS to determine if he/she is a participant in DDP or Mental Health Services Delivery System (MHSDS).

Slide  
3.5

- The lifestyles of physically disabled people are much different from individuals without disability  
Individuals with physical disabilities live the same as others. Although, some ways of doing things may be a little bit different depending on the type and severity of the person's disability.

Generally, inmates with disabilities just want to be treated the same as other inmates. Physically disabled inmates may require reasonable accommodation to provide access to PSAs.

## IV. Deaf Culture

<p><b>Section Time</b></p> <p>10 minutes</p>
--

<p><b>Slides</b></p> <p>4.0-4.4</p>
-------------------------------------

<p><b>Instructor Note</b></p> <p>Play videos on PowerPoint slides 4.2 – 4.4. Refer to the Activity Reference Page for instructions.</p> <p>When playing videos, audio level should be set to hear no sound on the severe hearing loss simulation.</p>
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<p><b>Slides</b></p> <p>4.5-4.6</p>
-------------------------------------

<p><b>Slide</b></p> <p>4.7</p>
--------------------------------

### A. Activity: Sample Spelling Test

The following three videos will show an example of how it can be difficult for a deaf person to communicate. On a sheet of paper, number one through ten and create three columns labeled severe, moderate, and mild. Each video will state ten words and simulate what a deaf person may hear. Try to write down all ten words.

After the video, we will share our answers and discuss the various challenges deaf and hearing impaired inmates may face in an institutional setting.

### B. Effectively Communicating with Deaf People

**Learning Objective 3: You will identify appropriate methods of interacting with a deaf person.**

Many deaf people are just as insecure about not being understood as you are, but most are patient and incredibly skilled at getting their point across.

Remember, effective communication (EC) is required for all inmates, during all interactions. For due process events, ensure EC is documented. Reference the Disability/Accommodation Summary in SOMS to locate the inmate's primary/alternate method of communication.

There are many instances in an institutional setting that you may be required to get a deaf person's attention. Effective methods of getting a deaf person's attention are:

- Make and maintain eye contact and then approach
- For obvious reasons, the deaf community is very visually based, so they use their eyes to convey meaning and position themselves to best see the world around them. For example, deaf people

sometimes use their eyes for pointing. This is called eye gazing.

- **Waving**

To get the deaf person's attention, wave your hand in his or her peripheral vision field. Wave casually. A frantic wave means something is wrong.

- **Flickering the lights**

This custom is equivalent to yelling for everyone to "listen up." You can also use it to draw attention when you enter the room if his or her back is turned towards you. Flickering the lights is an effective method of notifying deaf inmates of institutional alarms or other emergencies.

- **Pounding and stomping**

These actions release vibrations that a deaf person can feel and turn to see its origin. Be mindful of tapping your fingers or feet, as this will send the wrong message.

Additionally, when communicating with a deaf person, avoid the following:

- **Chewing gum**

Mouth movement is an important part of signed communications.

- **Never throw objects at a deaf person to get their attention**

Besides being just plain rude, it is also dangerous.

- **Do not grab or poke when you walk up behind a deaf person.**

This action is commonly used as a warning that something is wrong or in an emergency.

**Instructor Note**

If you choose to use the "pounding and stomping" method to gain the attention of a deaf person, be aware of your body language. Body language is very significant in ASL. Your message could be misconstrued.

**Slide**

4.8

**Instructor Note**

Hearing-impaired inmates are required to wear their hearing-impaired vest during out-of-cell programming unless hearing aids are being utilized.



Understanding differences in deaf culture will improve your ability to communicate and interact with deaf inmates. Some differences are:

- Louder speech
- Very animated with use of hand gesture
- Not affected by verbal commands and loud noises

**Slides**

4.9-4.10

**C. Misconceptions About Deaf People:**

- Most deaf people communicate in sign language  
Approximately ten percent of people with hearing loss communicate in sign language as their first language. Some prefer to speak and/or lip read. When utilizing a sign language interpreter (SLI), position yourself so the deaf person can see you. Speak to the inmate, do not speak directly to the SLI.
- Most deaf people are able to read lips  
Lip reading is a difficult skill to acquire. Even the best lip readers can only catch 25-30 percent of what is being said. Deaf people look at the context of the discernible words in the sentence to fill in the words that they did not understand. Many mouth movements appear similar on the lips and may look the same to a deaf person.
- Deaf people cannot talk  
Some deaf people can speak well. This ability depends on many factors. Such as whether the deaf person suffered their hearing loss before or after they learned to speak.  
Some deaf people may choose not to talk because it is difficult for them to regulate the volume, pitch, or sound of their voices in a way that most people can understand. Deaf people do not want

**Slide**

4.11

**Slide**

4.12

**Instructor Note**

Be mindful that SLI requires additional body language and animation. At times, SLI users may appear agitated, when in fact; they are only attempting to convey a message.

to be labeled as “deaf-mute” or “deaf and dumb” and reject the terms as inaccurate.

Deaf people may make natural sounds when they sign such as when they are emphasizing a point or expressing intense emotions. Some deaf people use sounds to communicate with family and friends.

**Slide**

4.13

- Writing notes are adequate means of communication

For some deaf people, English is a second language. Often, SLI is a deaf person’s primary form of communication. Some deaf people struggle to understand written English, especially in highly stressful or emergency situations.

**Slide**

4.14

- People with hearing loss will hear if the speaker shouts

Sometimes shouting at a deaf person does not help them to understand a speaker. If a speaker increases the volume when they talk, their face becomes distorted, making their lips more difficult to lip read. In other instances, shouting may assist a deaf individual. An increase in voice volume may cause vibrations within the ear that are beneficial to the deaf person. Customize EC based on the individual’s needs.

- All deaf and hard of hearing persons benefit from hearing devices

Hearing aids amplify sound and may benefit some deaf people. Other people have a hearing loss that distorts sounds. Amplification does not help them.

Challenges facing deaf inmates:

- Difficulty hearing announcements and alerts
  - Count

**Slide**

4.15

**Instructor Note**

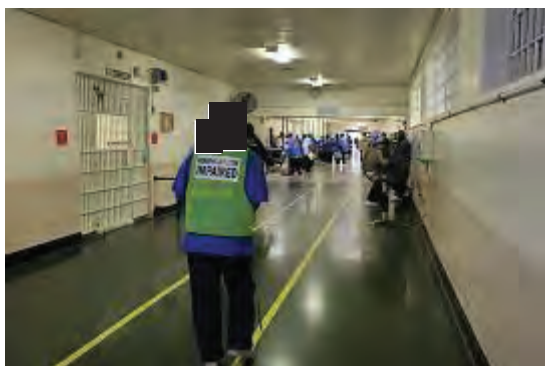
Discuss the prison environment, and why a Deaf person would not want to appear vulnerable.

**Slide**

4.16

- Meal-Time
- Medication
- Pages
- Other announcements
- Difficulty hearing orders issued orally
- Need to avoid seeming vulnerable
- Understanding written material

When interacting with the deaf population, the most valuable tool you can possess is patience. Regardless of the method of communication utilized (SLI, lip reading, written notes, etc.), you may have to provide explanation several times to ensure effective communication is achieved.



## V. Visual Impairments

### Section Time

5 minutes

### Slides

5.0-5.2

### Learning Objective 4: You will identify common myths about individuals with visual impairments.

Misconceptions from the sighted community stem from a lack of understanding about blindness. By dispelling the following myths, you can increase your understanding of the blind community:

- Blind individuals are granted heightened senses and skills to counteract the vision impairment

Blind people do not organically develop heightened senses. However, they do rely on other senses that differ from people with intact sight. The method of learning to do familiar tasks with alternative senses is a learned one that takes repetition, hard work, and sharp memory.

### Slide

5.3

- Blind people cannot see anything. They just see complete and total darkness

Approximately 10-15 percent of the visually impaired populations see nothing at all. The majority of those with impaired vision have varying levels of sight.

### Slide

5.4

- You can always tell when someone is blind

Most blind people can see. Blind people lead normal lives and can give little-to-no indication of their visual impairment. Blind people do not always use tinted glasses, or white canes. If you do notice that someone is blind or has a visual impairment, respect the individual as you would anyone else. You should not focus on pity in your conversation. Although you may say things with good intentions, your comments may be misconstrued as devaluing. Similarly, avoid patronizing remarks like “You get around well for a blind person.” This type of remark will most likely be received as impolite, and will only frustrate the person you are talking to.



## VI. Developmentally Disabled

**Section Time**

5 minutes

**Slides**

6.0-6.2

**Slide**

6.3

### **Learning Objective 5: You will identify common stereotypes related to people with developmental disabilities.**

Throughout history, people with developmental disabilities have experienced mistreatment. People with developmental disabilities are often times devalued. Whenever a group of people is deemed less valuable, they become vulnerable to abuse, neglect, discrimination and exploitation. Stereotypes, misinformation, and a lack of interest, all contribute to a culture where people with disabilities are not treated as individuals.

Common stereotypes of developmentally disabled people:

- Cannot learn new things
- Are burdens
- Are not equal
- Do not have human feelings and emotions
- Are unable to feel basic physical sensations, such as pain, cold, and hunger
- Do not make any worthwhile contributions to society
- Are incapable of making decisions for themselves

Stereotypes are harmful. By accepting stereotypes as true, you may subconsciously mistreat individuals. Like many stereotypes, those about the developmentally disabled population are untrue. Many developmentally disabled people lead fulfilling lives, and make large societal contributions.

## VII. Mental Health

<p><b>Section Time</b></p> <p>5 minutes</p>
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<p><b>Slides</b></p> <p>7.0-7.1</p>
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<p><b>Slide</b></p> <p>7.2</p>
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<p><b>Instructor Note</b></p> <p>Discuss the various stigmas surrounding mental health.</p>
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<p><b>Slide</b></p> <p>7.3</p>
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### **Learning Objective 6: You will define mental illness stigma.**

Attitudes toward mental illness vary among individuals, families, ethnicities, cultures and countries. Cultural and religious teachings often influence beliefs about the origins and nature of mental illness, and shape attitudes towards the mentally ill. The fictional portrayal of people with mental health problems in cinema and television is often misleading and stigmatizing. Beliefs about mental illness can affect a person's willingness to seek and adhere to treatment.

Mental illness stigma is defined as the “devaluing, disgracing, and disfavoring by the general public of individuals with mental illnesses.” Stigma often leads to discrimination, wrongful treatment of individuals, and the denial of rights for those with mental illness.

Common misconceptions surrounding the mentally ill community perpetuate stigma. Some misconceptions are:

- A person who has had a mental illness can never be normal.  
People with mental illnesses can, and do, recover to resume normal activities. This is why, as a correctional officer, it is important to provide access to treatment, rehabilitative programs, services, and activities.
- Mentally ill people are dangerous  
The majority of people with a mental illness are not violent. In cases when violence does occur, the incident typically results from the same reasons as with the general public, such as feeling threatened or excessive use of alcohol and/or drugs. In circumstances where a potential threat is present, utilize your communication skills to de-escalate the situation.



- People with mental illnesses can work low-level jobs, but are not suited for really important or responsible positions.

People with mental illnesses, like everyone else, have the potential to work at any level depending on their own abilities, experience and motivation. By encouraging inmates, you could assist them in realizing their potential.

You can combat stigma by responding to false statements about mental illness or people with mental illness. Many people have damaging ideas on the subject. Accurate facts and information may help change their ideas and actions.

## VIII. Learning Disabilities

### Section Time

5 minutes

### Slides

8.0-8.1

### Slides

8.2

### Slides

8.3-8.4

### Slide

8.5

### Learning Objective 7: You will identify specific learning disabilities.

Learning disabilities should not be confused with learning problems, which are primarily the result of visual, hearing, motor impairment, intellectual disability, emotional disturbance, environmental, cultural or economic disadvantages.

Generally speaking, people with learning disabilities are of average or above average intelligence. There often appears to be a gap between the individual's potential and actual achievement. This is why learning disabilities are referred to as "hidden disabilities." The person may be very bright and intelligent, yet may be unable to demonstrate the skill level expected from someone of a similar age.

Learning disabilities are neurologically based processing problems. These processing problems can interfere with learning basic skills such as reading, writing, and/or math.

"Learning disability" is a term describing a number of other, more specific disabilities. The following specific disabilities are considered "learning disabilities."

- Auditory Processing Disorder (APD)

This condition adversely affects how sound that travels unimpeded through the ear is processed or interpreted by the brain. Individuals with APD do not recognize subtle differences between sounds and words.

- Dyscalculia

This condition affects a person's ability to understand numbers and learn math facts.

- Dysgraphia

This condition affects a person's handwriting ability and fine motor skills. For individuals suffering from

Dysgraphia, writing and thinking at the same time may be difficult.

Slide

8.6

- Language processing disorder  
This condition makes it difficult to attach meaning to sound groups that form words, sentences and stories. A language processing disorder relates only to the processing of language, not the sounds of the words.

Slide

8.7

- Non-verbal learning disabilities  
Typically, a person with a non-verbal learning disability has trouble interpreting non-verbal cues like facial expressions or body language, and may have poor coordination.

Slide

8.8

- Visual perceptual/visual motor deficit  
A disorder that affects the understanding of information that a person sees, or the inability to draw or copy. This disorder can result in subtle differences in shapes or printed letters, losing place frequently, may hold their pencil too tightly, or poor hand/eye coordination.

The purpose of this section is to educate you on the multitude of learning disabilities that affect society as well as the inmate population. By understanding these learning disabilities, you may be able to recognize the abundance of challenges a learning disabled inmate faces. Learning disabilities can have a drastic impact on the rehabilitative process. Your role in providing access to programs, services and activities is vital to the success of the learning-disabled population, as it is with all inmates.

**IX. KNOWLEDGE REVIEW****Section Time**

5 minutes

**Slides**

9.0-9.8

Instructions: Fill out the answers. Cadets will be randomly called upon to provide answers.

1. Disability culture is defined as the sum total of behaviors, beliefs, ways of living, and material objects that are unique to persons affected by disability.
  - True**
  - False
  
2. Identify common misconceptions about wheelchair users and mobility impairment. (check all that apply)
  - Wheelchair users cannot walk at all**
  - Wheelchair users do not perform jobs as well as non-wheelchair users**
  - Wheelchair users are as happy or unhappy as anyone else
  - Wheelchair users have mental impairments**
  - The lifestyles of physically disabled people are much different from individuals without disability**
  
3. Identify appropriate methods of interacting with a deaf person. (check all that apply)
  - Make and maintain eye contact**
  - Waving**
  - Yelling so the individual will be able to hear you
  - Flickering the lights**
  - Pounding and stomping**

4. Identify common myths about people with vision impairment. (check all that apply)
- Blind individuals are granted heightened senses and skills to counteract the vision impairment**
  - Blind people cannot see anything. They just see complete and total darkness**
  - You can always tell when someone is blind**
  - Blind people always use tinted glasses
5. Identify common stereotypes related to people with developmental disabilities.
- Do not have human feelings and emotions**
  - Are able to live fulfilling lives and make contributions to society
  - Are unable to feel basic physical sensations, such as pain, cold and hunger**
  - Do not make any worthwhile contributions to society**
  - Are incapable of making decisions for themselves**
6. Mental illness stigma is defined as the “devaluing, disgracing and disfavoring by the general public of individuals with mental illnesses.”
- True**
  - False

Match the specific learning disability to its definition.

7. Auditory Processing Disorder <b>(C)</b>	A. Affects a person's handwriting ability and fine motor skills.
8. Dyscalculia <b>(D)</b>	B. Makes it difficult to attach meaning to sound groups that form words, sentences and stories.
9. Language Processing Disorder <b>(B)</b>	C. Affects how sound that travels through the ear is processed or interpreted by the brain
	D. Affects a person's ability to understand numbers and learn math facts.
10. Dysgraphia <b>(C)</b>	A. Trouble interpreting non-verbal cues.
11. Non-Verbal Learning Disability <b>(A)</b>	B. Makes it difficult to attach meaning to sound groups that form words, sentences and stories.
12. Visual Perceptual/Visual Motor Deficit <b>(D)</b>	C. Affects a person's handwriting ability and fine motor skills.
	D. Affects the understanding of information that a person sees

## X. Conclusion

**Section Time**

5 minutes

**Slides**

10.0-10.1

Often, people are not empathetic to the hardships, experiences, and feelings of persons with disabilities. Some people even feel stress about the “appropriate way” to interact with individuals with disability. Remember, individuals with disability wish to be treated the same as everyone else.

Education is the greatest way to expose common misconception and create an inclusive culture of fair and consistent treatment of all inmates. By creating a community of acceptance, staff and inmates can bridge cultural gaps.

Inmates with disabilities may need assistance and/or reasonable accommodation to access and participate in PSAs. As a correctional officer, you are obligated to assist the disabled population and provide equal opportunity for all inmates to pursue rehabilitation.



**GLOSSARY**

<b>Word</b>	<b>Definition</b>
<b>DDP</b>	Developmental Disability Program
<b>DKD</b>	Individual has kidney disease or other chronic illness
<b>DLT</b>	Individual requires relatively level terrain/path of travel to ambulate due to mobility or health concerns
<b>DNH</b>	Individual has a hearing impairment and used an assistive device to achieve effective communication
<b>DNM</b>	Individual may or may not require an assistive device to ambulate, but the disability is not severe enough to require special housing or level terrain
<b>DOM</b>	Department Operations Manual
<b>DPH</b>	Individual is deaf or severely hearing impaired and requires written notes, sign language or lip reading accommodation to achieve effective communication
<b>DPM</b>	Severe mobility restrictions and uses an assistive device other than a wheelchair to ambulate, cannot walk up and down stairs
<b>DPO</b>	Severe mobility restrictions but only uses a wheelchair intermittently as a way to ambulate outside the cell area
<b>DPP</b>	Disability Placement Program
<b>DPS</b>	Individual does not communicate effectively when speaking due to permanent speech impairment
<b>DPV</b>	Individual has severe vision impairment which is not correctable to better than 20/200 with corrective lenses in at least one eye
<b>DPW</b>	Severe mobility restrictions and requires full time wheelchair. Must be housed in a wheelchair accessible cell.
<b>EC</b>	Effective Communication
<b>MHSDS</b>	Mental Health Services Delivery System
<b>PSA</b>	Programs, Services, and Activities
<b>SLI</b>	Sign Language Interpreter

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# **EXHIBIT 14**

# Memorandum

Date March 15, 2022

To All Staff

Subject: **DEAF CULTURE TRAINING AT CALIFORNIA SUBSTANCE ABUSE TREATMENT FACILITY AND STATE PRISON AT CORCORAN (CSATF/SP)**

It is the policy of the California Department of Corrections & Rehabilitation (CDCR) to provide equal access to programs, services, and activities for inmates and parolees with disabilities, with or without reasonable accommodation, consistent with legitimate penological interests. No qualified inmate or parolee with a disability as defined in Title 42 of the United States Code, Section 12102 shall, because of that disability, be excluded from participation in or denied the benefits of programs, services, or activities (PSA's) of the department or be subjected to discrimination.

The following memorandum is intended to provide tools, options, knowledge and examples that will assist in resolving situations with inmates with hearing disabilities.

All staff at CSATF/SP must be aware of the various disabilities inmates may have at this institution, regardless of post, shift, temporary assignment, overtime, etc. This includes inmates who are Deaf, Hard of Hearing, and inmates who require Sign Language Interpretation (SLI). There are many challenges of being deaf in prison. Many inmates, who require SLI, are left with little to no human interaction among fellow inmates, officers, and families. Without deaf awareness training, some staff may misinterpret rapid hand motions, loud screams, and grunts as hostile behavior. Staff often see an SLI inmate wearing hearing aids and assume they can hear calls and passes. Every deaf inmate is unique and has various levels of hearing impairment, education, reading level, and signing proficiency.

The following are examples of communication challenges in prison:

**Encounters in housing units:** Staff are mandated to ensure equal access to PSA's for SLI inmates. Per OP 403, staff are required to flash lights prior to making announcements. Personal contact by either an ADA Workers or staff may also be used. Utilizing the dry erase board or written notes on paper is an alternative tool staff may utilize. Staff must be aware that at any time, when communicating with an SLI inmate, if secondary methods of communication are not sufficient, or if an inmate seems frustrated or in fear of his or her safety, the best course of action is to call upon an SLI staff member. If an SLI inmate receives an assignment in the building, staff must also schedule an SLI to ensure the inmate is properly orientated. Staff must be aware the Deaf population often use exaggerated arm motions, loud screams, or grunts as a way of communicating. This can be interpreted as hostile or aggressive behavior, instead of an attempt to communicate. Due to the large Deaf population housed at CSATF/SP, it is imperative staff are aware of Deaf Culture and the different ways Deaf individuals communicate.

**Job Assignment:** Staff are required to secure an SLI during orientation so the inmate is aware of all policies and procedures for his or her assignment. An SLI is also required when staff try to communicate any new job related information, which could potentially cause physical harm or risk to the completion of an assignment. Failure to obtain an SLI



may result in job related safety issues and impede the inmate's right to gain credit towards early release.

**Classroom Setting:** Staff are required to secure an SLI during class instruction, classroom orientation, testing preparation, any instruction the deaf inmate may not understand, and when a classroom rule violation needs addressed.

**Medical Services:** A common frustration for the deaf community is healthcare staff's failure to schedule an SLI prior to an appointment or after discharged from a hospital setting. Many encounters are delayed waiting for a SLI to report for interpretation. Healthcare staff, to include doctors, nurses, dental, mental health, and medical management, must be cognizant of the ADA population on every facility. An SLI can be scheduled by simply calling the ADA office, or utilizing the California Correctional Health Care Services (CCHCS) SLI Video Remote Interpretation (VRI) laptop (located in Correctional Treatment Center).

**Rehabilitative/Religious/Re-Entry Services:** Every inmate should be afforded equal access to PSA's. This includes the opportunity to attend rehabilitative, religious, and re-entry services. Staff working in these areas must be cognizant of the inmate population with disabilities and the accommodations we must afford them. CSATF/SP has weekly ADA rosters which are distributed to all management, custody, education, medical and counseling staff. These reports are also uploaded into the CSATF/SP Share Drive under the ADA tab. Reports are detailed and include which inmates require SLI. Failure to schedule an SLI requires the class to be postponed and staff must be placed on the court ordered noncompliance log. If staff repeatedly fail to schedule SLI's for PSA's, progressive discipline must be followed by the Hiring Authority.

**Canteen/Laundry/Library Services:** Deaf inmates must receive equal access to Canteen, Laundry, and Library Services. It is very important for all staff to know the ADA population on the facility they are working. As a team, we can ensure better communication and minimize frustrations for Deaf inmates. Staff can utilize ADA Workers or building staff for personal contact. Staff can then instruct the SLI inmate to report to said locations by using written notes, lip reading (when safe to do so given the Covid-19 mandates), loud voice, or inmate SLI interpreter. If at any time during these encounters, an SLI inmate is having difficulty communicating, it is mandated that staff call the ADA office to schedule an SLI. It is also imperative to communicate to the SLI inmate that the ADA office was contacted. This will minimize frustrations and the use of grievances or CDCR 1824's, when simple communication would suffice.

**Parole Process:** Prior to release, every inmate is afforded the opportunity to read & sign conditions of Parole/Probation, provided housing and work locations, and assisted with re-entry into the community. Staff in the Parole Services Division, counseling staff, Case Record Analysts, and Receiving & Release staff, must be aware of our SLI population. An SLI is required for every step. This will ensure the inmate is aware of all requirements and ensures equal access to PSA's.

In order to ensure effective communication, equal access, and limit frustrations from the Deaf population, it is imperative CSATF/SP staff become educated on Deaf Culture and communication styles. Once we are better educated on Deaf Culture, CSATF/SP staff will be better able to provide adequate services and equal access to the Deaf population and meet all ADA court ordered requirements.

Staff are to view the SLI Video in this LMS course within 60 days from this memo. In-Person Deaf Culture Training will be held in near future. I appreciate all your efforts to ensure CSATF/SP remains in compliance with ADA regulations. Please contact the ADA office for your SLI needs at extension 5256, 5278, or 5263.

Should you have any questions, you may contact the Americans with Disability Act (ADA), Associate Warden (AW), C. Critchlow, at extension 7516.



T. CISNEROS  
Warden

California Substance Abuse Treatment Facility and State Prison at Corcoran

# **EXHIBIT 15**



# Memorandum

Date December 13, 2021

To All Staff

Subject: **OPERATIONAL PROCEDURE 497 – SIGN LANGUAGE INTERPRETATION SERVICES**

The purpose of the memorandum is to announce the following deletions to Operational Procedure 497, Sign Language Interpretation Services during this annual review period. Any additions are noted in **red bold font** within the procedure. Any deletions are listed below.

## Deletions

### VI. METHODS

#### C. Effective Communication

##### 3. Qualified Interpreters

CSATF/SP has **four (4)** ~~three (3)~~ full time Support Services Assistant Interpreters/SLIs. CSATF/SP also maintains an active contract with a qualified SLI agency that provides in-person interpreters, and maintains an active contract for VRI services.

#### D. Scheduling a Staff or Contract SLI:

- The CSATF/SP SLIs' normal business hours vary, Monday through Friday, from 0730 to 1630, depending on institutional need. For routine appointments, the SLI should be scheduled at least 72 hours in advance, by contacting the ADA Coordinator's Office Technician (OT) at extension **5263 and/or extension 5256** ~~5257~~, between 0800 and 1600 hours, Monday through Friday. Non-routine and urgent appointments may also be made during normal business hours by calling extension ~~5257 or extension 5263~~ **or extension 5256**.

Ensure this information is disseminated to all institutional staff. If you have any questions, please contact the Associate Warden ADA Coordinator at extension 7516.



B. EDWARDS  
Chief Executive Officer  
California Substance Abuse Treatment  
Facility and State Prison at Corcoran



T. CISNEROS  
Warden  
California Substance Abuse Treatment  
Facility and State Prison at Corcoran

New:	
Reviewed:	December 2021
Annual Revision Month:	August

**CALIFORNIA SUBSTANCE ABUSE TREATMENT FACILITY AND STATE PRISON**  
Corcoran, California

Operational Procedure (OP)

**I. PLAN TITLE AND NUMBER**

- A. Sign Language Interpretation Services
- B. OP - 497

**II. PURPOSE AND OBJECTIVES**

- A. To implement a plan to achieve effective communication for hearing and/or speech impaired inmates at the California Substance Abuse Treatment Facility and State Prison (CSATF/SP) who utilize American Sign Language (ASL) as their primary method of communication.
- B. The purpose of this procedure is to outline the process whereby inmates, whose primary method of communication is ASL, are identified, scheduled for, and are provided Sign Language Interpretation (SLI) for programs, services, and activities offered at CSATF/SP, as well as certain institutional processes.
- C. The objective is to provide hearing and/or speech impaired inmates a means to participate meaningfully in programs, services, and activities offered by CDCR.

**III. REFERENCES**

- A. *Armstrong v. Schwarzenegger* Court Ordered Remedial Plan, Amended January 3, 2001
- B. *Armstrong v. Schwarzenegger* Court Ordered Injunction, dated January 22, 2007
- C. *Armstrong v. Schwarzenegger* Court Enforcement Order, dated October 20, 2009
- D. *Armstrong v. Brown* Court Order, dated June 4, 2013
- E. Americans with Disabilities Act (ADA)
- F. Equally Effective Communication (Revised) Memorandum, dated October 22, 2003 and Effective Communication for Hearing and Speech Impaired, dated January 22, 2007.
- G. California Code of Regulations (CCR), Title 15



H. Departmental Operations Manual (DOM)

#### **IV. APPROVAL AND REVIEW**

The Associate Warden (AW) Americans with Disabilities Act Coordinator (ADAC) will review this procedure annually during the month of August, and submit to the Warden for final approval.

#### **V. RESPONSIBILITY**

1. The ADAC has the primary responsibility for the monitoring and coordination of this procedure.
2. All Captains are responsible for compliance in their area of responsibility.
3. All CSATF/SP staff has a responsibility to ensure ASL inmates receive required SLI services and have equal access to programs, services, and activities.
4. The ADAC is responsible to ensure that all inmates whose primary method of communication is ASL receive a copy of this OP.
5. The ADAC is responsible to ensure that all inmates who communicate using ASL meet with a staff Sign Language Interpreter and the ADA Correctional Counselor I (CCI) and are provided a copy of this OP as soon as possible, and no later than fourteen (14) calendar days after arrival at CSATF/SP. The ADA CCI shall document the meeting and provision of the OP on a CDCR 128-B, and shall forward a copy of the CDCR 128-B to the ADAC for filing.

#### **VI. METHODS**

##### **A. Policy**

1. It is the policy of the CDCR to provide access to programs, services and activities to inmates and parolees who have disabilities, with or without reasonable accommodation, consistent with legitimate penological interests. No qualified inmate or parolee with a disability, as defined in Title 42 of the United States Code, Section 12102; shall, because of that disability, be excluded from participation in or denied the benefits of services, programs, or activities of the Department or be subjected to discrimination based on disability.
2. When an inmate's primary method of communication is ASL, qualified SLI or video remote interpreting (VRI) services shall be provided for all due process functions, clinical encounters, and when an inmate is accessing a program, service, or activity. The provision of SLI is especially important when the program, service, or activity provides rehabilitative or other programming opportunities that can reduce the length of the inmate's sentence.

## B. Permanent Hearing Impairments

**DPH** — Inmates who are permanently deaf or severely hearing impaired and require written notes, sign language, or lip reading accommodation to achieve effective communication. Hearing impairment vests are required while outside of cell/bed area.

**DNH** — Inmates who have a hearing impairment and use an assistive hearing device to achieve effective communication. An assistive device is prescribed. Hearing impaired vest is required while outside of cell/bed area when hearing device(s) is not in use.

## C. Effective Communication

### 1. General

Reasonable accommodation shall be afforded to inmates with disabilities (e.g., vision, speech, hearing, and learning), to ensure equally effective communication with staff, other inmates, and where applicable, the public. Auxiliary aids, which are reasonable, effective, and appropriate to the needs of the inmate, shall be provided when simple written or oral communication is not effective. Such aids may include bilingual aides, qualified interpreters, readers, sound amplification devices, captioned television/video text displays, Telecommunication Devices for the Deaf/Teletype (TDD/TTY), audio taped texts, Braille materials, large print materials, qualified SLI, and VRI.

### 2. Equally Effective Communication for Hearing and Speech Impaired

In cases where the inmate's primary method of communication has not been previously determined, the CSATF/SP staff SLI shall interview inmates designated as DPH, DNH, or DPS, to determine their primary method of communication. If the inmate uses sign language, the SLI shall ask whether it is his primary or sole method of communication.

The interviewer shall also determine the type of sign language the inmate uses e.g., ASL, and what alternative form of communication should be used in an emergency where a SLI is not readily available. The results of the interview shall be documented on the CDCR Form 128-B, Equally Effective Communication for Hearing/Speech Impaired (Attachment A).

The interviews shall be conducted within fourteen (14) days of arrival, if not previously done; or within 14 days of being verified with a hearing or speech impairment. The ADAC or designee shall monitor the Disability and Effective Communication System (DECS) each working day; to ensure hearing and speech impaired inmates are interviewed in a timely manner.

The CSATF/SP SLI shall forward the original CDCR Form 128-B to the Classification and Parole Representative (C&PR), and a copy to the Health



Care Compliance Analyst. The original 128-B shall be scanned in the general chrono section of the inmate's Electronic Records Management System (ERMS), with the most current CDCR Form 1845. Medical records staff shall scan the copy of the CDCR 128-B to the most current CDCR Form 1845 in the Electronic Unit Health Record (e-UHR).

The C&PR and ADA Coordinator shall ensure the information from the CDCR Form 128-B is entered into the Strategic Offender Management System (SOMS). DPP Disability/Accommodation screen, Effective Communication Chrono for Hearing/Speech Impaired field.

A copy of the CDCR Form 128-B shall be attached to the CDCR Form 611, Release Program Study, and transmitted to the parole region, or county of supervision, for inclusion in the parolee field file as an ADA source document. If a CDCR Form 128-B is completed after the CDCR Form 611 has been sent to the parole region, the C&PR or designee shall generate a CDCR Form 128-B, ADA Documents for Transition to Parole, and forward these documents to the parole region ADA Coordinator for inclusion in the aforementioned file. This will ensure effective communication information is available to staff during parole supervision and/or parole revocation procedures.

### 3. Qualified Interpreters

A qualified Sign Language Interpreter includes a person adept at ASL.

To qualify as an ASL interpreter, an individual must pass a test and qualify in one of the five categories established by the National Association for the Deaf, one of the three categories established by the Registry of Interpreters for the Deaf, or as a Support Services Assistant Interpreter from the Department of Rehabilitation or CDCR.

CSATF/SP has **four (4)** ~~three (3)~~ full time Support Services Assistant Interpreters/SLIs. CSATF/SP also maintains an active contract with a qualified SLI agency that provides in-person interpreters, and maintains an active contract for VRI services.

#### D. Scheduling a Staff or Contract SLI:

##### 1. SLI services shall be obtained in the following order:

- Use of on-site SLI Services Support Assistant. If no availability due to unusual and/or unforeseen circumstances; then proceed to next method.
- Use of CDCR Statewide SLI staff through video remote. If no availability due to unusual and/or unforeseen circumstances, then proceed to next method.

- Use local contractors who provide SLI services in person. If no availability due to unusual and/or unforeseen circumstances, then proceed to next method.
- Use Video Remote Interpretation (VRI) services, per contract.

In following this tiered approach, a local contractor's in-person SLI services may be used before CDCR's statewide SLI staff through video remote, where appropriate, in light of the inmate's communication needs; the nature of the program, service, or activity at issue; and any other relevant facts.

NOTE:

- Contract In-Person SLI require 72-hours advanced notice when scheduling.
  - VRI contractors require 48-hours advanced notice when scheduling.
  - Staff should keep these timeframes in mind when requesting SLI services and make all attempts to request SLI services as far in advance as possible, and at least 72-hours in advance whenever possible so that in-person SLI may be obtained.
2. The CSATF/SP SLIs' normal business hours vary, Monday through Friday, from 0730 to 1630, depending on institutional need. For routine appointments, the SLI should be scheduled at least 72 hours in advance, by contacting the ADA Coordinator's Office Technician (OT) at extension **5263 and/or extension 5256** 5257, between 0800 and 1600 hours, Monday through Friday. Non-routine and urgent appointments may also be made during normal business hours by calling extension ~~5257 or extension 5263~~ **or extension 5256**.

In the event Staff SLI services are unavailable, the ADAC OT shall attempt to schedule Contract In-Person SLI services.

Same day routine SLI appointments may be possible, and will be determined by the needs of a particular inmate; however, this depends on the availability of the interpreters.

Staff shall contact the ADA OT to determine if an interpreter is available.

In the event an interpreter is unavailable, and the inmate's needs are not urgent or life-threatening, the next available appointment will be given to the requestor.

For after-hours urgent Medical/Mental Health needs, staff shall contact the Watch Commander (extension 7142), who will call the CSATF/SP SLIs.

In the event the CSATF/SP SLIs are not available staff should utilize the Medical "On Demand" VRI services. Staff may access VRI by utilizing their regular user name and password to log onto the computer. Refer to instructions (Attachment B) on how to utilize "On Demand" VRI services. VRI



equipment will be available throughout the institution at the following locations:

- Short Term Restricted Housing
- Correctional Treatment Center (portable unit)
- Treatment and Triage Area (portable unit)
- Receiving and Release
- All facility medical clinics

If unable to successfully connect to the "On Demand" interpreter and the medical need of the inmate is life-threatening, staff should employ whatever other alternative means the inmate uses for effective communication (e.g., lip reading, reading, and writing). Staff should document why the alternative method used to communicate with the inmate, and how the determination was made that the communication was effective. If written notes are utilized, a copy of the notes should be attached to the corresponding document (e.g., medical evaluation).

It is the responsibility of all staff using the "On Demand" VRI contracted services to complete the SLI Log (Attachment C). The SLI log shall be accessed through the icon/shortcut on the desktop of the SLI device.

The SLI log shall be completed directly following each encounter. The SLI logs containing "On Demand" VRI usage shall be submitted by the Medical Contract Analyst, or designee, to the Field Operations and Class Action Management Unit by the 5th of the following month.

All staff utilizing the VRI equipment will be responsible for the security and storage of the VRI device, and submittal of the monthly VRI Equipment Accountability Log.

### 3. SLI for Due Process Proceedings

During due process events, CSATF/SP staff shall ensure SLI is provided to inmates that have a primary method of communication of ASL. All efforts shall be made to secure an in-person SLI for due process events, and preference is to have the CSATF/SP staff SLI conduct interpreting services for all due process proceedings. Because of the critical importance of communication involving due process proceedings, including but not limited to: CDCR Form 115, Rules Violation Reports (RVR); CDCR Form 114-D, Notice of Reason for Administrative Segregation Unit (ASU) Placement; Unit Classification Committee (UCC) hearings; CDCR Form 128-B1, Notice of Classification Hearings; Institutional Classification Committee (ICC) hearings; and Board of Parole Hearings (BPH), the standard for equally effective communication is higher when these interests are involved and so in-person SLI is preferred. **Staff tasked with conducting the due process proceeding shall identify in advance whether an inmate requires SLI for the proceeding and contact the ADAC or ADA OT to request SLI**



**services. The ADA OT shall be responsible for scheduling SLI services.**

Qualified SLIs shall be provided for all due process events when sign language is the inmate's primary or sole means of effective communication, unless the inmate refuses.

Only during emergency due process situations can an alternate method of EC be used in lieu of SLI, and then only when another equally effective means of communication is available. In the event an alternate method of communication is used, the SLI shall present the information to the inmate as soon as possible, but no later than the next business day.

If the inmate refuses or waives the assistance of a SLI, staff shall use the most effective form of communication available, including written notes. For inmates who refuse or waive the presence of an SLI for reoccurring programs, the ADA Coordinator or designee shall document the initial refusal on an Informational Chrono for placement into SOMS/ERMS.

Staff shall notify the inmate they have the right to subsequently revoke a previous refusal or waiver for an SLI.

Staff shall document the method of communication used, whether the communication was effective, and the basis for how the determination was made. For example, "the sign language interpreter appeared to communicate effectively with the deaf inmate as indicated by the inmate's substantive response via sign language."

#### 4. Communication During Health Care Appointment

**Refer to Operational Procedure 473, Effective Communication (Medical)**

#### 5. Education/Vocations/Division of Rehabilitative Programs (DRP)

Inmates that have a primary method of communication of ASL shall receive SLI services during academic, vocational, and Division of Rehabilitation Programs (DRP) programs.

**The Inmate Assignment Lieutenant or designee shall be responsible for notifying the ADAC or ADAC OT the same day that an inmate requiring SLI is assigned to an academic or vocational program along with the start date of the program which will be no less than 72 hours from notification. The ADAC OT shall be responsible for scheduling in person SLI or VRI services.**

#### 6. Inmate Access to Self-Help Programs, Religious Services, and Inmate Activity Groups (IAG)

When inmates request to participate in Self-Help groups, religious services, and IAG's, or would like to see a Chaplain during office hours, the following process shall be utilized to ensure inmates receive SLI services:

- For requests to participate in religious services, or to see a Chaplain during office hours, inmates may submit a CDCR-22, *Request for Interview, Item, or Service form*, to the office of the Community Resource Manager (CRM). **Inmates shall note any special accommodations they require on the CDCR-22 (i.e., Sign Language Interpretation).**
- For requests to participate in IAGs or self-help groups, inmates may submit a CDCR-2016, *Inmate Activity Group Program Request*, to the CRM. **Inmates shall note any special accommodations they require on the CDCR-2016 (i.e., Sign Language Interpretation).**
- The CRM or designee shall screen all CDCR-22 and 2016 forms on the date of receipt by the CRM's office to determine if the inmate requires SLI by reviewing SOMS.
- If the inmate requires SLI, the CRM or designee shall scan the CDCR-22 or 2016 forms and email it to the ADAC, ADAC OT, and the Class Action Management Unit Correctional Counselor-II. The email shall also include details regarding the dates and times the inmate will be in attendance in the program(s).
- The ADAC OT shall screen all incoming emails from the CRM, or designee, and will be responsible for scheduling in-person SLI services or VRI services if an in-person interpreter cannot be obtained.
- The ADAC OT shall notify the CRM or designee and respective Captain when services have been confirmed. The Captain will be responsible for ensuring notification to the inmate.
- The ADAC OT shall print all emails, and all CDCR-22 and 2016 forms attached to emails, and maintain a dedicated file for tracking purposes. Copies shall be maintained for five (5) years before purging.
- In the event the deaf inmates shows up to see the Chaplain without having submitted a CDCR-22 in advance, the Chaplain shall call the ADAC OT at extension **5263 and/or extension 5256** ~~5257~~ to request a staff SLI. The ADAC OT will determine the availability of the staff SLI and provide the time when the staff SLI will be scheduled, no later than the next business day. The Chaplain will provide this date and time to the inmate.

## 7. SLI Requirements for Inmates in Work/Job Assignments



The Inmate Assignment Lieutenant or designee shall be responsible for notifying the ADAC or ADAC OT and work supervisor the same day that an inmate requiring SLI is assigned to a work or job assignment and no less than 72 hours before start of assignment.

The ADAC OT shall be responsible for scheduling in person SLI or VRI services as needed. All work supervisors shall ensure inmates that have a primary method of communication of ASL receive SLI services when necessary. SLI services shall be provided during interactions including, but not limited to: job training, safety education, or when job expectations and performance evaluations/feedback are being provided. **Work supervisors shall be responsible for notifying the ADAC or ADAC OT when an inmate requiring SLI is assigned to a job assignment and the supervisor plans to cover one of the subjects listed above. The ADAC OT shall be responsible for scheduling in person SLI or VRI services. Work supervisors shall notify the ADA office 72 hours in advance when one of the above-listed interactions is planned so that a SLI can be scheduled.**

#### 8. Correctional Counselor Encounters

Inmates whose primary method of communication is ASL may request SLI services when meeting with their assigned Correctional Counselor during open line. The inmate shall request the services at least three business days in advance by submitting a CDCR 22 to the counselor.

The counselor shall contact the ADAC OT at extension **5263 and/or extension 5256** 5257 to schedule SLI services and inform the inmate when SLI services have been scheduled. In the alternative, if a deaf inmate shows up for open line without having submitted a Form 22 in advance, the Correctional Counselor shall contact the ADAC OT to request a staff SLI. The ADAC OT will determine the availability of the staff SLI and provide the time when the staff SLI will be scheduled, no later than the next business day.

The Correctional Counselor will provide this date and time to the inmate.

For scheduled committees or counselor encounters initiated by the counselor, the Counselor must contact the ADAC OT no less than 48 hours in advance of the scheduled encounter.

#### 9. Pre-Parole Planning

For pre-parole planning encounters with Division of Adult Parole Operations (DAPO) staff, staff must contact the ADAC OT no less than 72 hours in advance of the scheduled encounter.

#### 10. Other Encounters

For other general communication with DPH-SLI inmates, custody staff may use the secondary method of communication if appropriate. If there are concerns regarding effective communication, custody staff should call (1) the ADA office to schedule a certified SLI or (2) the Inmate Sign Language Aide, as appropriate.

#### 11. Inmate Sign Language Aides

Inmate Sign Language Aides may be utilized in various areas throughout the institution (e.g., dining, laundry, canteen, dayroom, and recreation yard) to assist staff with communicating with hearing impaired inmates. **Inmate Sign Language Aides should not be utilized in areas requiring confidentiality (medical encounters) or in due process settings (such as Classification and CDCR 115 hearings). Sign Language Aides shall only be utilized for general communication and cannot perform functions where a Qualified SLI is required.**

Inmates assigned to the position, which will be classified as an ADA Worker, shall meet the following criteria:

- a) Able to communicate using ASL. The CSATF/SP SLI will test the inmate's sign language skills.
- b) Demonstrates maturity and ability to work effectively with the designated population and staff.
- c) Minimum 9.0 reading TABE score.
- d) At least six months remaining to serve at WG/PG A1/A or A2/B. Inmates with less than six months to serve may be considered on a case-by-case basis.
- e) DPP class members may be considered on a case-by-case basis.
- f) No history of predatory behavior towards others.

Inmates who have had an active Security Housing Unit (SHU) term in the past six months or have been found guilty of any of the following rules violations in the past 12 months shall not be approved for participation:

- Battery on a non-prisoner – 12 months
- Battery on an inmate – 12 months
- Participation in a riot – 12 months
- Any in-custody sexual misconduct – 12 months
- Threats of violence against non-inmates or inmates – 12 months



- Trafficking, possession, use, or distribution of a controlled substance – 12 months
- Extortion – Blanket exclusion

Inmates, who wish to be assigned as Sign Language Aides, should contact their assigned CCI for a review of their case factors, to determine if they meet classification criteria. If the inmate meets classification criteria, he shall be referred to the ADA Coordinator, who will schedule the inmate for sign language testing by a CSATF/SP SLI. If the inmate is found proficient in ASL by the CSATF/SP SLI, a memorandum will be generated by the ADA Coordinator or designee, requesting the inmate be seen by the classification committee for placement on a waiting list for the position.

## 12. Video Telephone

Global Tel Link (GTL) Video Relay System (VRS) is available in designated housing units. The VRS will be utilized by hearing and/or speech impaired inmates whose primary method of communication is ASL.

Designated units at CSATF are: A2, B2, C1, C8, D2, E3, E4, F1, G3, CTC, and ASU.

The VRS will require a username and password, provided by the ADA Office, and contact numbers to be inputted prior to usage. The VRS will only allow ASL inmates to contact numbers once the inmate has completed the VRS Telephone Call Sheet (Attachment D). The ASL inmates will retrieve a VRS Telephone Call Sheet from housing unit staff. Once the ASL inmate has obtained the form, the inmate will need to complete the form by listing his first and last name, CDCR number and the contact numbers of the people they wish to make contact with through the VRS. Once the inmate has completed the VRS form, he will then submit it to the ADA office. Once the ADA office is in receipt of the completed form, the form will be scanned and e-mailed to GTL for inputting no later than three business days of receipt. Once the ADA office has received confirmation from GTL that the inmate's contact numbers have been uploaded, the ADA office will approve the request and issue the inmate's username and password.

Custody staff will ensure inmates with hearing and/or speech impairments, whose primary method of communication is ASL, are allowed to sign up to use the video telephone by utilizing the Video Telephone Sign Up sheet. Upon daily completion of the Video Sign Up/Usage Log, the Facility Captain shall review and sign the logs and custody staff shall fax it to the ADA Coordinator at fax extension 7297.

Video telephone calls shall be provided in 40 minute increments to established connection (10 minutes connection and 30 minutes for call).



The 30 minutes will begin once the inmate has been connected to the Purple interpreter or family/friend.

Custody staff shall monitor the video telephone calls at random intervals for inappropriate behavior, via the desktop located in the officer's office, control booth, or Complex. At no time will the desktop monitor be turned off or unplugged, and at no time will other inmates be permitted in view of the desktop monitor. Custody staff shall also conduct physical observation. If staff observes inappropriate behavior by either the inmate or their family member, staff shall terminate the call immediately and log the termination in the Video Telephone Sign Up/Usage Log. The inmate shall be issued a Rules Violation Report, in accordance with the violation. Video telephone privileges and/or suspension shall be determined during the disciplinary process as pursuant to CCR, Title 15, except under circumstances that threaten the safety and security of the institution, public, staff and/or inmates alike. In such cases, the ADA Coordinator or designee may suspend video telephone privileges at their discretion.

Visiting restrictions with minors pursuant to CCR, Title 15, Section 3173.1 (a), Visiting Restrictions with Minors, will not be a determining factor when identifying which inmates can utilize the video telephone. However, it is the inmate's responsibility to adhere to CCR, Title 15, Section 3282 (c) (8), Use of Telephones by Inmates, which states in part, "An inmate shall not place a call to victims, peace officers, or other persons who have an official written request not to receive telephone calls."

If staff believes the context of the video telephone call may contain language that threatens the safety and security of the institution, public, staff and/or inmates alike, they must notify the ADA Coordinator or designee immediately. Upon notification, the ADA Coordinator or designee shall ensure SLI staff assigned to CSATF/SP review the recorded video derived from the VRS desktop monitor located in the SLI's office, or the Private Branch Exchange (PBX) box as soon as practical.

Custody staff shall ensure the hearing and/or speech impaired inmate population receives equal access to telephone calls. In the event the GTL VRS becomes inoperable, the inmate shall be afforded a TDD/TTY call.

#### E. VRI Laptop Equipment

1. VRI services must deliver high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication. They must also provide a clear, audible transmission of voices.
2. The VRI laptop equipment shall primarily be used as a communication device for inmates who require ASL as a means of effective communication to participate in programs, services, and activities.
3. The ADA Coordinator shall be notified in the event it is discovered that the



VRI laptops have been or are being used for non-authorized use.

4. Inmates shall not handle or operate the VRI laptops. The staff/sponsor attending the program, service, or activity shall set up and prepare to receive the VRI connection. The VRI laptop will be located as such that the CDCR staff/sponsor can maintain supervision of the unit to prevent inmate misuse.

a) Security Protocols

1. Departmental Information Security Officer approval of technical requirements and implementation.
2. Local ability for select institutional staff to grant and/or deny staff/sponsor access to the CDCR network and the Jabber application. The ADA Coordinator will maintain a list of all staff authorized to use the VRI laptops, including the information required by the vendor to establish a call via Jabber.
3. VRI laptops will only be utilized to receive a call via Jabber, or the contracted agency, when the authorized CDCR staff/sponsor is logged onto the VRI laptop.

a) Training

CDCR staff/sponsors who attend programs, services, and activities that include inmates who require a sign language interpreter (SLI) are authorized to use the VRI laptop equipment. Training will be provided by the ADA Coordinator/designee, and shall include the following topics:

- Authorized use
- Completing the VRI laptop user log
- Scheduling video conferences
- Set-up and operation
- Reporting damage and malfunctions
- Movement and storage
- Ensuring SLI is able to hear all participants
- Having instructors repeat comments made by others and speak at a pace that enables interpreters to perform duties
- Properly positioning deaf inmate in the room
- Making sure the screen can be seen by inmate and the remote interpreter can see the inmate.

b) Initial Setup, Annual Maintenance, Malfunctions and Repair

1. Enterprise Information Services – Integrated Communications (EIS-IC), via the local Associate Information Systems Analyst (AISA), will be responsible for initial set-up and testing of the VRI laptops on the CDCR network.

2. EIS-IC, via the AISA, will be responsible for providing annual maintenance of the video conferencing equipment.
3. In the event the video conferencing laptops/headsets are damaged or malfunctioning, the staff/sponsor or the ADA Coordinator shall submit a remedy ticket requesting the source of the problem be identified and remedied, including have damage equipment repaired.

c) Scheduling

1. The ADA Coordinator will keep a copy of the SLI contract in his/her office, as well as, the procedure used to obtain and schedule SLIs.
2. When in person SLI services are unable to be obtained, staff/sponsors can obtain a certified VRI contract interpreter to use during their program, services, or activity by contacting the ADA Coordinator or designee at least 72 hours prior to the time services are required. The staff/sponsor shall provide the inmate name, CDCR number, and the type of activity.
3. The ADA Coordinator or designee will document all VRI scheduling requests, cancellations, and malfunctions/disruptions of service. The following information will be provided to the contractor, using the contact e-mail below, at least 48 hours in advance when scheduling VRI services:
  - Location
  - Username (what the staff/sponsor uses to logon onto CDCR's network).
  - Date and time
  - Duration of program, service, or activity
  - Name and CDCR number(s) of inmate(s) for whom services are being provided

VRI Contractor: Interpreting and Consulting Services, Inc.

4. If VRI interpreter services are no longer required after being scheduled, the ADA Coordinator or designee shall attempt to inform the contractor of the cancellation at least 36 hours in advance of the scheduled times. The ADAC OT shall maintain cancellations/modifications on the SLI log.

d) VRI Laptop Equipment Inventory Log

1. A VRI Laptop Inventory sheet (Attachment F) shall be maintained in a secure location by the ADA Coordinator/designee. In the event video conferencing equipment is discovered missing, it



shall immediately be reported to the Watch Commander and the ADA Coordinator.

2. Staff checking out a VRI laptop shall complete the inventory sheet daily, when picking up and returning the equipment.
  3. The ADA Coordinator/designee shall complete periodic inventories for the VRI laptops and headsets, no less than every 30 days.
- e) VRI Laptop Equipment Checkout Log and VRI Laptop User Log
1. The VRI Laptop Equipment Checkout Log (Attachment G) shall be completed by the CDCR staff/sponsor each time the VRI laptop is used for ASL VRI services. Each section corresponding to the date of the use shall be completed.
  2. The VRI Laptop User Log (Attachment H) shall be used to track SLI usage. A copy of the log shall be submitted to the ADA Coordinator on a weekly basis.
- f) Movement and Storage
1. The VRI laptop equipment (laptop, power cord, wireless headset, etc.) will be stored inside of a secure charging cart which will be located in all complex's sally port.
  2. Access to the VRI laptop equipment shall be gained by the approval of the Community Resource Manager (CRM) and the AW ADA Coordinator. Once approved the CDCR staff / volunteer will check out a key from the complex to gain access to the VRI charging cart which contains the VRI laptop. The CDCR staff/ volunteer will be required to complete the VRI Laptop Equipment Check Out Log and the VRI Laptop User Log.
  3. The VRI laptop and headset must be plugged in and charged whenever the equipment is stored.
- g) Equipment Operation
1. Ensure VRI laptop has a full battery charge and/or plug VRI laptop into an outlet during operation.
  2. Turn on VRI laptop by moving the switch (round button) located on the right side edge of the laptop (near the front). Move the switch toward the front of the laptop to turn on the laptop.
  3. Encryption code. After turning on the VRI laptop, a black screen will appear that will require you to enter an encryption (security)

code. Enter the four digit code and press “enter”. Inmates shall not have access to this confidential code. This code needs to be entered each time the VRI laptop is turned on. The local AISA shall provide the code to the ADA Coordinator for dissemination to staff using the VRI laptops.

4. Press the “Ctrl” “Alt” and “Delete” keys on the laptop keyboard simultaneously to log in. Follow the on screen prompts and, when prompted, log into the laptop using your CDCR user ID and your password.

Note: Only CDCR staff/sponsors who have a CDCR user ID and password have requested and been approved to use the VRI laptops (Prior to first use, each VRI laptop user must first submit a remedy ticket – the local AISA will then approve your access to the VRI/Jabber application).

CDCR Staff/sponsors without a user ID and password must follow established local procedures for obtaining access to CDCR's information technology network. Your local AISA can provide the necessary forms and assistance to request access. Sponsors will be trained upon assignment.

5. Using the mouse pad on the laptop, move the cursor to the “Cisco Jabber” icon located on the laptop desktop screen.
6. Double click on the Jabber icon to open the application and follow the prompts.

**NOTE:** You will be prompted to re-enter your user name and password.

7. While the Jabber application is opening, you may get a Quick Setup window. Click “Next” twice to move past this step.
8. Once Jabber has been opened, the CDCR staff/sponsor need only wait for the SLI to “call” the laptop (similar to “Facetime” or “Skype” on a cell phone or computer”).

**Note:** Do not attempt to call out/contact the SLI using the VRI laptop. The system only allows the SLI to initiate the video call, and then only after the staff/sponsor has logged into CDCR's network and opened the Jabber application prior to the prescheduled start time of the program, service, or activity.

9. At the time the program, service or activity is scheduled to start, the SLI will call into the VRI laptop using the information provided to them concerning the program's start time and the CDCR staff/sponsor attending the program.



**Note:** The connection will fail if the CDCR staff/sponsor logging onto the VRI laptop/Jabber application is not the same CDCR staff/sponsor that was pre-scheduled to attend the program, service, or activity. Only the pre-scheduled CDCR staff/sponsor's logon information will work. Notify the ADA Coordinator whenever there is a change in the CDCR staff/sponsor who will be attending the program, service, or activity. The ADAC, or designee, will then provide the updated CDCR staff/sponsor information to the contractor. **AFTER HOURS:** in the absence of the ADAC, or designee, staff can submit an email to the contract service provider at [icsvrinterpreting@gmail.com](mailto:icsvrinterpreting@gmail.com).

10. Click on "Answer" to accept the call.
11. Once the SLI has established a connection, use the following steps to maximize the effectiveness of the transmission:
  - Minimize any external noise (e.g., close windows/doors, turn fans down or off, limit group noise and limit to one speaker at a time, etc.)
  - Conduct a sound check to make sure the sign language interpreter can hear you clearly.
  - Headsets - Each VRI laptop has a matched headset (headset only works with the matched laptop). These headsets are for the CDCR staff/sponsor's use only.
  - Place the VRI laptop in a location such that the CDCR staff/sponsor can maintain supervision of the unit and to prevent inmate misuse (inmates not allowed to touch the VRI laptops).
  - Instruct the remote interpreter and inmate to notify the CDCR staff/sponsor at any time if they need the VRI laptop repositioned or if there are problems with the transmission.
  - Instruct the remote interpreter and inmate to notify the CDCR staff/sponsor at any time if they need the staff/sponsor to slow down or speak louder.
  - Place the VRI laptop on a table or desk in front of the inmate so that the inmate and the sign language interpreter can see each other (Note: No more than two inmates for each laptop). Make sure there is a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position.
  - On VRI laptops with rotating screens, position the laptop so the keyboard is facing away from the inmate.
  - Increase screen brightness by simultaneously pressing the "Fn" button and the "f10" button on the laptop's keyboard.
  - Decrease screen brightness: "Fn" + "f9."
  - Increase the person's voice on the video by pressing the "Fn"

- button and the “f7” button on the laptop’s keyboard.
  - Lower the person’s voice: “Fn” + “f6.”
  - Mute and unmute the person’s voice on the video by pressing the “Fn” button and the “f5” button on the laptop’s keyboard.
  - You can turn the microphone on and off so the person on the video can hear you by pressing the “Fn” button and the “f8” button on the laptop’s keyboard.
  - If using a whiteboard, blackboard, computer, or handout, the CDCR staff/sponsor shall explain verbally what is being done.
  - Remember, the interpreter must hear what is being presented, asked, or said in order to be able to sign back to the student.
  - If necessary, question the interpreter and/or inmate to verify he/she understood the question, comment, or instruction.
  - The staff/sponsor should monitor their pace to allow the interpreter sufficient time to complete signing to the inmate.
12. Jabber Call Controls. Below is a description of what the buttons on the bottom of the video do (description is listed from left to right).
- Show Self view – this will show a small window of yourself on the bottom right.
  - Turn Camera Off – This will turn off your camera.
  - Turn Microphone off – This will turn off your microphone.
  - Adjust Volume – This will allow you to adjust the volume of the person on the video.
  - Go Full screen Mode – this will make the video full screen.
  - Share Presentation – This will allow you to share a presentation with the person on the video.
  - End Call – This will end the video call.
13. Ending a call. To end the session, thank the service provider. Click on the “End” button to terminate the call.
14. Turn off the laptop, follow the normal shut down procedures: Click on the windows icon located on the bottom left of the screen. Then click on the small arrow in the lower right corner of the menu box and click on “Shut down.”
15. Complete the VRI Laptop Log (or use your existing SLI Logs to track usage) and return the equipment to the secured storage location. Remember to plug in the laptop and headset when not in use to keep the batteries fully charged.
16. Notify the ADA Coordinator of any issues or problems experienced during the delivery of the VRI service for placement on the SLI log.



#### F. Authorized Use of the SX-10 Video Conferencing Equipment

1. The SX-10 video conferencing equipment shall primarily be used as a communication device for deaf inmates who require ASL as a means of effective communication and are assigned to either an academic, vocational and/or inmate activity groups. The equipment is not to be utilized for other institutional operations, such as health care services, disciplinary hearings, and other due process proceedings, without the approval of the DRP Deputy Director.
2. Any request to utilize the SX-10 video conferencing equipment for non-authorized use shall be submitted to the SCEP who shall forward it to the DRP Deputy Director via the Office of Correctional Education (OCE)/DRP chain of command.
3. In the event it is discovered that the SX-10 video conferencing equipment has been or is being used for non-authorized use, the SCEP shall report the infraction to the OCE Superintendent.

#### G. Training

Only CDCR staff will be authorized to use the VRI equipment. Inmates and civilian volunteers shall not have access to the SX-10 codec unit. Prior to setting up and/or using the SX-10 video conferencing equipment, all CDCR staff will be required to attend a VRI training session (Attachment I). Training will be provided by OCE staff, the SCEP, the CRM, and/or the local informational technicians, and shall include the following topics:

- Authorized use
- Completing the VRI user log
- Scheduling video conferences
- Set-up and operation
- Reporting damage and malfunctions
- Movement and storage

#### H. Mounting

1. The SX-10 codec unit shall be placed within a locked security box and mounted on the wall at the front of the academic classroom in a direction in which the ASL students shall be clearly visible to the camera.
2. The security box will be designed to allow adequate space for storage of accessory cords and the remote control.
3. The security box will be designed so the camera and the remote control eye are not obstructed and there is adequate ventilation to cool the unit.
4. The 48 inch television will be permanently mounted on the wall next to the SX-10 codec unit.

5. The corresponding key used to unlock the security box shall be identified by the Institutional Locksmith as a "hot key", and only staff that have been trained and approved shall have access.
6. The CRM and SCEP are responsible for maintaining a current list of CDCR staff that have attended VRI equipment training and approved to have access to the "hot key". This list should be distributed to the Complex Controls as it is updated.

I. Initial Setup, Annual Maintenance, and Repair

1. Enterprise Information Services – Integrated Communications (EIS-IC), via the local AISA, will be responsible for initial set-up and testing of the SX-10 video conferencing equipment on the CDCR network platform.
2. EIS-IC, via the AISA, will be responsible for providing annual maintenance of the video conferencing equipment. At the time the annual maintenance is due, the SCEP shall submit a remedy ticket requesting the service be provided.
3. In the event the SX-10 video conferencing equipment is damaged or malfunctioning, the SCEP shall submit a remedy ticket requesting the damaged equipment be repaired. If the damaged equipment cannot be repaired, the SCEP shall inform the OCE Contract Manager, who shall attempt to procedure replacement device(s).

J. Transmission Disruptions and Malfunctions

1. The contract providing CDCR with VRI services must maintain a high quality real time video and audio signal sufficient for real time communication between the inmate and SLI. If the video/audio is terminated or is not to these standards after the connection has been established, CDCR is not responsible for paying for the services if the transmission malfunction was the fault of the contractor. For tracking purposes, all transmission disruptions and malfunctions shall be reported and logged by the equipment operator.
2. In the event the video or audio signal is lost after transmission is established, is of poor quality, is not in real time, or cannot be established to begin a VRI session, it shall be reported by the equipment operator to the SCEP, the CRM, and the ADA Coordinator as soon as possible. The SCEP will submit a remedy ticket to the local AISA, who will work in conjunction with EIS-IC staff to determine if the malfunction was the result of the contractor's equipment or CDCR's. In the event CDCR's equipment is damaged or malfunctioning, the local informational technician and EIS-IC staff will determine if the equipment can be repaired. The SCEP shall contact the OCE Contract Manager and explain the problem and any subsequent resolution.



## K. Scheduling

### 1. SLI services shall be obtained in the following order:

- Use of on-site SLI Services Support Assistant. If no availability due to unusual and/or unforeseen circumstances; then proceed to next method.
- Use of CDCR Statewide SLI staff through video remote. If no availability due to unusual and/or unforeseen circumstances, then proceed to next method.
- Use local contractors who provide SLI services in person. If no availability due to unusual and/or unforeseen circumstances, then proceed to next method.
- Use Video Remote Interpretation (VRI) services, per contract.

In following this tiered approach, a local contractor's in-person SLI services may be used before CDCR's statewide SLI staff through video remote, where appropriate, in light of the inmate's communication needs; the nature of the program, service, or activity at issue; and any other relevant facts.

2. The ADAC will ensure the institution maintains an active contract with a qualified interpreter who will provide VRI services. The ADAC will keep a copy of the contract in his/her office, as well as the procedures used to obtain and schedule.
3. Staff members who require a certified VRI contract interpreter for education, vocations, inmate leisure time activity groups, or other approved services shall contact the ADAC or designee a least 72 hours prior to the time services are required and provide the inmate name, CDCR number, and the type of activity.
4. The ADAC OT will document all VRI scheduling requests, cancellations, modifications, and malfunctions/disruptions of service on a log; copies of the log shall be retained for five years. The following information will be provided to the contractor when scheduling VRI services:
  - Location
  - Internet protocol address or other contact numbers
  - Date
  - Time
  - Duration of assignment
  - Type of service to determine interpreter certification required
  - Name and CDCR number(s) of inmate(s) for whom services are being provided
5. If VRI interpreter services are no longer required after being scheduled, the ADA Coordinator or designee shall attempt to inform the contractor of the cancellation at least 36 hours in advance of the scheduled times.

#### L. Inventory Sheet

1. A video conferencing inventory sheet (Attachment J) shall be maintained in a secure location by the SCEP or designee. In the event of video conferencing equipment is discovered missing, it shall immediately be reported to the Watch Commander, SCEP, ADAC, and the OCE Contract Manager.
2. The SCEP or designee, CRM or designee, shall complete the inventory sheet daily, at the beginning and end of the shift and/or inmate activity group or self-help group session.
3. The SCEP shall complete the inventory sheet no less than every 90 days.

#### M. VRI User Log

1. The VRI User Log (Attachment K) shall be completed by the staff member operating the SX-10 codec device each time it is used for ASL VRI services. Upon completion of services, each section corresponding to the date of the use shall be completed. If there is a disruption in the video/audio signal, the SX-10 codec device malfunctions, or the video/audio feed is not real time, a "Y" shall be marked in the "Bad Signal" column, and a description of the problem should be noted in the "Comments" section.
2. The VRI User Log shall be maintained in a locked area, such as a box or desk. The VRI User Log is not required to be filled out if the SX-10 codec unit is being used for staff training or meetings.
3. Completed logs shall be submitted to the ADAC on a weekly basis, no later than Monday of the preceding work week, and the SCEP to ensure scheduled services are being billed.

#### N. Movement and Storage

1. Once the SX-10 codec device and corresponding television have been mounted, they should not be moved unless approved by the OCE Contract Manager or if the equipment needs servicing.
2. The OCE Contract Manager can authorize movement of the SX-10 codec due to the movement of inmates who require VRI ASL services. In these situations, the SCEP shall forward the request to the OCE Contract Manager for approval.
3. Any time the SX-10 code device is removed from the locked mounted cage, it shall be stored in a secure location without inmate access.
4. In order to prevent damage to the SX-10 codec unit, it shall be placed in a travel bag anytime it is moved.



#### O. Meetings

1. Captains shall conduct a meeting with ASL inmates assigned to their facility bi-weekly. Prior to conducting the meeting, Captains shall schedule in person SLI by contacting the ADAC OT at extension(s) ~~5257/5263~~/**5256**. Minutes shall be recorded and documented to memorialize each meeting. **Copies of meeting minutes shall be forwarded to the ADAC for review and filing.** Meetings shall include the following topics/duties:
  - Discussion relative to any issues/concerns the ASL population may be experiencing to include, but not limited to: SLI services, access to programs, work/job assignments, academic/vocational assignments, videophones, announcements and alarms, etc.
  - Discussion regarding facility operations and access to programs, services, and activities. Topics may include: yard/dayroom activities, Inmate Activity Groups available on the facility, Law Library, Canteen, Laundry, Food Services, etc.
2. The ADAC shall conduct a meeting with ASL inmates assigned to CSATF/SP on a monthly basis. Prior to conducting the meeting, the ADAC shall schedule in person SLI. The ADAC shall review any new policies and procedures relevant to deaf class members during those meetings. Minutes shall be recorded and documented to memorialize each meeting. The ADAC OT shall maintain a file of minutes. Meetings shall include topics similar, or related, to those mentioned above for Captains. The ADAC shall review and address issues/concerns discussed during the meeting.
3. IAC Executive Body Meetings – in-person SLI will be scheduled in advance and provided at executive body meetings.

#### P. Tracking

1. The ADAC OT, or designee, shall ensure each encounter where SLI is provided; either in-person or through VRI Services (not including "On Demand" VRI Services), is documented in the approved tracking system (BIS). Each encounter logged shall contain the following information:
  - Name and CDCR number(s) of inmate(s) for whom services are being provided.
  - Type of encounter.
  - Date and time of encounter.
  - Duration of encounter
  - Method interpreting was provided (name of interpreter or VRI equipment)
  - Outcome of encounter (e.g. Held, Cancelled, etc.)

2. The ADAC OT shall generate a log from the tracking system and submit the log to the Field Operations and Class Action Management Unit by the 5<sup>th</sup> of the following month.

Q. DRP Television Channel

The DRP television channel shows ASL content to class members requiring SLI. The new channel features daily national news shows, mandated departmental videos from the Secretary, pertinent health care related information, as well as other rehabilitative content.

Viewing is available on channel 45 in institutional day rooms, select education classes, and for personal viewing on offender purchased televisions. Inmates will have access to view the ASL content in their housing unit dayroom at a minimum of one hour during the morning, afternoon, and evening, for a minimum of three hours of availability per day.

Posters and flyers, provided by DRP Media section staff, shall be posted within housing units.

  
\_\_\_\_\_  
T. CISNEROS  
Warden

  
\_\_\_\_\_  
B. EDWARDS  
Chief Executive Officer

**ATTACHMENTS**

- Attachment A: CDCR Form 128-B, Equally Effective Communication for Hearing/Speech Impaired
- Attachment B: VRI Instructions
- Attachment C: SLI Log
- Attachment D: VRS Telephone Call Sheet
- Attachment E: Video Telephone Sign Up/Usage Log
- Attachment F: VRI Laptop Inventory Sheet
- Attachment G: VRI Laptop Equipment Checkout Log
- Attachment H: VRI Laptop User Log
- Attachment I: VRI Staff User Guide
- Attachment J: Video Conferencing Inventory Sheet
- Attachment K: VRI User Log



State of California

Department of Corrections and Rehabilitation

# Memorandum

## Policy 21/037

Date March 14, 2022

**Operational Procedure (OP) 497,  
Sign Language Interpretation Services**

To All Staff

Subject **OPERATIONAL PROCEDURE 497, SIGN LANGUAGE INTERPRETATION SERVICES**

The purpose of this memorandum is to announce the amendment of Operational Procedure 497, Sign Language Interpretation Services. This policy shall remain in effect until incorporated into the next annual revision.

### Additions

#### VI. METHODS

##### C. Effective Communication

###### 1. General

Reasonable accommodation shall be afforded to inmates with disabilities (e.g., vision, speech, hearing, and learning), to ensure equally effective communication with staff, other inmates, and where applicable, the public. Auxiliary aids, which are reasonable, effective, and appropriate to the needs of the inmate, shall be provided when simple written or oral communication is not effective. Such aids may include bilingual aides, qualified interpreters, readers, sound amplification devices, captioned television/video text displays, Telecommunication Devices for the Deaf/Teletype (TDD/TTY), audio taped texts, Braille materials, large print materials, qualified SLI, and VRI.

**Upon Request, inmates who have primary methods of communication of American Sign Language shall receive sign language interpretation (SLI) for the following:**

- **Written material related to Education, such as correspondence courses or the written instructions for homework assignments.**
- **Mental health and substance abuse disorder treatment materials.**
- **The Office of Correctional Education, Peer Literacy Mentor Programs.**

##### D. Scheduling a Staff or Contract SLI:

###### **13. While in Short-Term Restricted Housing (STRH) placement**

Policy 21/037 OP 497 – Sign Language Interpretation Services  
Page 2 of 2

**Restraint inmates who have primary method of communication of ASL shall be afforded reasonable accommodation with the use of longer waist restraints during the following:**

- **Due process events.**
- **Medical encounters, to include, medical, dental, and mental health.**

Ensure this information is disseminated to all institutional staff. Should you have any questions regarding this matter, please contact the ADA Coordinator at extension 7516.



T. CISNEROS  
Warden  
CSATF/SP

DocuSigned by:

*Gloria Garcia*

F2192AAB340040F

GLORIA GARCIA  
Chief Executive Officer (A)  
CSATF/SP

# **EXHIBIT 16**



**CALIFORNIA SUBSTANCE ABUSE TREATMENT FACILITY  
AND STATE PRISON AT CORCORAN  
DUTY STATEMENT**

**CLASSIFICATION:** Nurse Practitioner, CF  
**WORKING TITLE:** Nurse Practitioner  
**POSITION NUMBER:** 587-213-9278-  
**DIVISION:** Health Care Services  
**DEPARTMENT:** Medical Services

Utilizing standardized procedures under the clinical supervision of a physician manager, the Nurse Practitioner, CF provides primary care services to the adult male and female inmate population within their scope of license. Primary care services include assessment, diagnosis, management and treatment of episodic illness and chronic illness, as well as health promotion and general evaluation of health status. Care may be provided in Reception Centers, Outpatient Housing Units, Specialty Clinics, Yard Clinics, Sick Call Clinics, Chronic Care Clinics, Correctional Treatment Centers, General Acute Care Hospitals, Hospice Units, and other clinical settings as determined by the Health Care Manager (HCM) or designee. The physician manager may delegate clinical direction of the Nurse Practitioner to appropriately qualified physicians based on approved ratios established by State and Departmental standards.

**SPECIFIC DUTIES:**

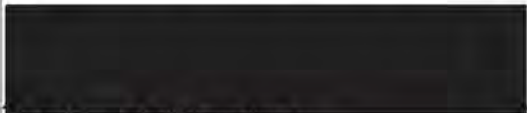
80% Responsible for the evaluation and treatment of inmates in (a) outpatient settings; and/or (b) \*inpatient settings by carrying out the following functions:

1. Obtain relevant medical histories. Perform physical examinations based on age and history.
2. Conduct preventive screening procedures based on age and history.
3. Formulate the appropriate differential diagnosis base upon the history, physical examination and clinical findings.
4. Develop and implement appropriate treatment plans that include:
  - Ordering appropriate diagnostic tests (laboratory, x-rays, electrocardiogram, etc):
  - Identifying and ordering appropriate pharmacologic agents, adhering to the CDCR statewide formulary whenever possible;
  - Identifying non-pharmacologic interventions;
  - Making appropriate referrals to other health professional (mental health, specialty services, dentistry, etc) and community agencies upon release from CDCR.
  - Consulting with a supervisory or collaborating physician on-site or via electronic means, as clinically indicated;
  - Developing a patient education plan that promotes inmate-patient participation in the plan of care;
  - Counseling and educating patients on health behaviors, self-care skills, and treatment options.

\*Functions described in this document may be performed in licensed inpatient settings if the Nurse Practitioner possesses the appropriate credential and/or experience.

Page 2  
Duty Statement  
Nurse Practitioner, CF

5. Document all assessments and care provided for each patient contact, maintaining detailed, legible, and confidential medical records in accordance with Department policies and procedures.
  6. Monitor patients to determine the effectiveness of the plan of care. Reassess and modify the plan of care as necessary to achieve medical and health goals.
  7. Conduct patient rounds in the inpatient setting.
  8. Perform pre-parole evaluations.
  9. Perform administrative segregation clearances.
  10. Perform evaluations of patients to determine their suitability or fitness for vocational/education programs.
  11. Complete CDC Form 128-C in accordance with department policy.
  12. Perform other duties related to patient care as assigned by the Health Care Manager or designee.
- 10% Respond to medical emergencies in the clinics, Outpatient Housing Units, Correctional Treatment Center, General Acute Care Hospital, or off grounds as necessary. Conduct emergency examinations on injured staff and provide First Aid Care.
- 10% Participate in multidisciplinary care conferences and professional practice group meetings (e.g. Peer Review, Continuous Quality Improvement, Pharmacy and Therapeutics, etc.). Assist in updating Standardized Procedures as necessary. Attend continuing education seminars necessary to maintain licensure and certification requirements. Attend In-Service Training as required.



Employee's Signature

7/26/2016

Date Reviewed



Supervisor's Signature

7/26/16

Date Reviewed



# **EXHIBIT 17**

SATF TRACKING TOOL

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL					HQ LEVEL				
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
<b>LEGAL MAIL</b>												
1	All SATF mail room staff should be retained in the procedures and requirements for handling legal mail under Cal. Code Regs. tit. 15 § 3141-43. When new staff are assigned to the mail room, supervisors must ensure they receive training in handling legal mail.	CDOR	✓	Warden	All assigned Mailroom staff shall receive additional training by December 30, 2022 in regards to title 15, California Code of Regulations, sections 3141-3143. In addition, all future assigned staff will receive the same training.	Completed	POP Uploaded 04/06/23	✓	DAI HQ	Memo Titles, "Processing and Inspection of Confidential Correspondence" released dated 9/1/2022.	Complete	Proof of practice memorandum uploaded to folder.
<b>TRANSFER</b>												
2	SATF leadership must amend the LOP to clarify requirements for custody and healthcare staff when they discover during the transfer process that an incarcerated person is missing DME.	BOTH	✓	Warden/CEO	SATF Healthcare/Custody/leadership and SMEs will form a policy workgroup in order to update the healthcare transfer LOP and the DME LOP. LOPs will include current HCDDOM policy verbiage as well as outlining SATF's procedure for discovery of and providing missing DME during Inter/Intra-facility transfers.	Completed	Revisions to OP 467 - DME completed on 05/24/23. Uploaded under item 2B on 06/08/23	□	CCHCS (Medical Services, Nursing & Correction Services – Field Ops)	HCDDOM 3.6.1 - Durable Medical Equipment and Medical Supply. 1) To be reviewed by CCHCS HQ to determine if amendments are necessary to comply with policy. 2) Develop a template LOP and assign to each institution statewide for implementation	In Progress	Per Corrections Services, HCDDOM sections have been divided by ownership.

SATF TRACKING TOOL

Link to add proof of practice: SATF Tracking Tool SharePoint for Proof of Practice by Line Item

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL						
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	
2 A)	The LOP should indicate under what circumstances custody staff must obtain an appropriate DME before transporting the incarcerated person to the receiving yard. The LOP should also indicate under what circumstances custody staff must report the missing DME - and whether they report the missing DME to the R&R nurse or the healthcare staff on the receiving yard.	BOTH	✓	Warden/CEO	SATF Healthcare/Custody leadership and SMEs will form a policy workgroup in order to update the healthcare transfer LOP and the DME LOP. LOPs will include current HCDOM policy verbiage as well as outlining SATF's procedure for discovery of and providing missing DME, to include loaner DME during Inter/intra-facility transfers.	Completed	Revisions to OP 467 - DME completed on 05/24/23. Uploaded under item 2B on 06/08/23	<input checked="" type="checkbox"/>	N/A	N/A	N/A	N/A	
			✓	Warden/CEO	Staff identifying missing DME will also submit an eHCR.	Completed	Revisions to OP 467 - DME completed on 05/24/23. Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A	
			<input type="checkbox"/>	Warden/CEO	Plan to develop self-monitoring audits after LOP completion. Self-monitoring audits are intended for internal use only, on a temporary basis in order to ensure efficacy and sustainability of the newly implemented processes outlined in the LOP.	In Progress							
			<input type="checkbox"/>	Warden/CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure ALL staff are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress							



SATF TRACKING TOOL

Link to add proof of practice: SATF Tracking Tool SharePoint for Proof of Practice by Line Item

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL					
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
2 C)	If the LOP asks the receiving yard with replacing missing DME, the LOP must specify which healthcare staff on the receiving yard (for example, a PCP, MA, SRN, or LVN) is responsible for ensuring the timely replacement of missing DME, the procedure for how they do so, and by when.	BOTH	<input checked="" type="checkbox"/>	Warden/CEO	SATF Healthcare/Custody leadership and SMEs will form a policy workgroup in order to update the healthcare transfer LOP and the DME LOP. LOPs will include current HCDDM policy verbiage as well as outlining SATF's procedure for discovery of and providing missing DME during Inter/Intra-facility transfers.	Completed	Revisions to OP 467 - DME completed on 05/24/23. Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	Warden/CEO	Staff identifying missing DME will also submit an eHCR.	Completed	Revisions to OP 467 - DME completed on 05/24/23. Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input type="checkbox"/>	Warden/CEO	Plan to develop self-monitoring audits after LOP completion. Self-monitoring audits are intended for internal use only, on a temporary basis in order to ensure efficacy and sustainability of the newly implemented processes outlined in the LOP.	In Progress						
3	CCHCS should consider amending the HCDDM to clearly outline the R&R or TTA RN's responsibility for documenting or reporting missing DME, as well as the responsibility, procedure, and deadlines for the receiving yard healthcare staff to replace missing DME.	CCHCS	<input type="checkbox"/>	N/A	N/A	N/A	N/A	<input type="checkbox"/>	CCHCS (Medical Services, Nursing & Correction Services – Field Ops)	HCDDM 3.6.1 - Durable Medical Equipment and Medical Supply. 1) To be reviewed by CCHCS HQ to determine if amendments are necessary to comply with policy. 2) Develop a template LOP and assign to each institution statewide for implementation	In Progress	Per Corrections Services, HCDDM sections have been divided by ownership.
			<input checked="" type="checkbox"/>	Warden/CEO	The Healthcare appliance Inventory Chrono will be reviewed and incorporated into the Healthcare Transfer LOP as an attachment.	Completed	Revisions to OP 467 - DME completed on 05/24/23. Uploaded under item 2B on 06/08/23					



SATF TRACKING TOOL

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL					
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
4	All R&R custody staff must be retrained on how to fill out the Intra-Facility Health Care Appliance Inventory Chrono, as well as on the amended LOP.	BOTH	<input type="checkbox"/>	Warden/CEO	All R&R staff, health care and custody, as well as TTA staff, will be trained on the amended LOP and their responsibilities.	In Progress		<input type="checkbox"/>	N/A		N/A	N/A
			<input type="checkbox"/>	Warden/CEO	R&R custody staff shall receive additional training in regards to the Intra-Facility Health Care Appliance Inventory Chrono.	In Progress		<input type="checkbox"/>	N/A		N/A	N/A
			<input type="checkbox"/>	Warden/CEO	Plan to develop self-monitoring audits after LOP completion. Self-monitoring audits are intended for internal use only, on a temporary basis in order to ensure efficacy and sustainability of the newly implemented processes outlined in the LOP.	In Progress		<input type="checkbox"/>	N/A		N/A	N/A
5	All R&R healthcare staff must be retrained on the amended LOP and their responsibilities when they discover missing DME during transfer.	CCHCS	<input type="checkbox"/>	Warden/CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure ALL staff are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress		<input type="checkbox"/>	N/A		N/A	N/A
			<input type="checkbox"/>	CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure R&R healthcare staff (as well as those that could be assigned to R&R) are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress		<input type="checkbox"/>	N/A		N/A	N/A
6	All TTA staff must be retrained on the amended LOP and their responsibilities when receiving new arrivals.	CCHCS	<input type="checkbox"/>	CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure all TTA staff (as well as those that could be assigned to TTA) are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress		<input type="checkbox"/>	N/A		N/A	N/A

Link to add proof of practice: SATF Tracking Tool SharePoint for Proof of Practice by Line Item

SATF TRACKING TOOL

SATF Tracking Tool SharePoint for Proof of Practice by Line Item												
Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL					
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
7	CCHCS should consider changing the reconciliation process such that a person's active DME medications, appointments, and conditions automatically continue as active when they transfer. The reconciliation process should require a physician to take affirmative action to remove a DME prescription, appointment, or condition, rather than requiring them to take affirmative action to maintain those DME prescriptions, appointments, or conditions.	CCHCS	<input type="checkbox"/>	N/A	N/A	N/A	N/A	N/A	Medical Services/SOMS	Automatic reconciliation of medications, DME and problem list (already underway). The Receiver has directed that HQ prioritize the already on-going development of a bot to automate the reconciliation process within EHRs.	In Progress	Per Dr. [REDACTED] the CER 2.0 Mpage has been completed.
8	CCHCS should investigate whether the electronic health records system can alert providers when they have failed to reconcile a new patient's orders.	CCHCS	<input type="checkbox"/>	N/A	N/A	N/A	N/A	Medical Services/SOMS	Tickler system when providers fail to reconcile a new patient's orders (may be unnecessary in light of #7).	In Progress	Per Dr. [REDACTED] the EDADS team has reviewed the capacity to generate an alert and has begun coding the solution independent of the role out of Item #7. There will be two mechanisms to achieve notification of a CER that is beyond the 24 hour period. The Mpage will generate a message in the Alert section. Also a Discern Rule will evaluate and send an email notification using the same mechanism as positive covid alert emails work to institution leadership positions.	



SATF TRACKING TOOL

Link to add proof of practice:

SATF Tracking Tool SharePoint for Proof of Practice by Line Item

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL						Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Implementation Status						
7362 S	SATF healthcare leadership must ensure that any housing unit on lockdown or restricted program has nurses making rounds to each cell to collect 7362s, in compliance with HCDOOM 3.1.5(c)(3)(D)(3). SATF leadership must track compliance with this requirement and must report their compliance quarterly to CCHCS personnel. SATF leadership must hold accountable nurses and their supervisors who are found in the auditing process to fail to comply with this HCDOOM requirement.	BOTH	<input checked="" type="checkbox"/>	Warden/CEO	7362 locked boxes have been placed in each housing unit for easier accessibility to patients, and these boxes are in active use. Nursing staff collect 7362's daily.	Completed	Uploaded 04/11/23	<input checked="" type="checkbox"/>						
			<input checked="" type="checkbox"/>	Warden/CEO	In general population housing units under lockdown or modified program, nursing rounds and collection of the CDCR Forms 7362, Health Care Services Request, will be documented in the housing unit logbook(s) per policy.	Completed	Uploaded 04/11/23							
			<input type="checkbox"/>	Warden/CEO	The Access to Care LOP will be revised to ensure this process is incorporated.	In Progress								
			<input checked="" type="checkbox"/>	Warden/CEO	HCAU and designated facility clinic manager will monitor this process similar to OMA Methodology.	Completed								
			<input checked="" type="checkbox"/>	Warden/CEO	In addition, monthly audits are being conducted with mock 7362s which are placed in the boxes and monitored to ensure timely pickup and triage. Self-monitoring audit intended for internal use only, on a temporary basis in order to ensure efficacy and sustainability process.	Completed	N/A							
			<input type="checkbox"/>	Warden/CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure ALL staff are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress								

SATF Focused Review was completed on 4/6/23, their compliance rating for this question was 100%. The HCAU OMA for SATF's Round VIIIb Focused Review was sent to the institution on 5/5/23. 5/11/2023 - Proof of Practice uploaded to folder.

This item will be reviewed at the upcoming OMA Focused Review for SATF

CCHCS Corrections Services - Field Ops

✓

SATF TRACKING TOOL

Link to add proof of practice: SATF Tracking Tool SharePoint for Proof of Practice by Line Item

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL					
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
			<input checked="" type="checkbox"/>	Warden/CEO	7362 locked boxes have been placed in each housing unit for easier accessibility to patients, and these boxes are in active use. Nursing staff collect 7362's daily.	Completed						
			<input checked="" type="checkbox"/>	Warden/CEO	In general population housing units under lockdown or modified program, nursing rounds and collection of the CDCR Forms 7362, Health Care Services Request, will be documented in the housing unit logbook(s) per policy.	Completed						
			<input checked="" type="checkbox"/>	Warden/CEO	Access to health care services shall be accomplished via daily cell front rounds by health care staff for the collection of the CDCR 7362.	Completed						
		BOTH	<input type="checkbox"/>	Warden/CEO	The Access to Care LOP will be revised to ensure this process is incorporated.	In Progress			N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	Warden/CEO	HCAU and designated facility clinic managers will monitor this process similar to OMA Methodology.	Completed						
			<input checked="" type="checkbox"/>	Warden/CEO	In addition, monthly audits are being conducted with mock 7362s which are placed in the boxes and monitored to ensure timely pickup and triage. Self-monitoring audit intended for internal use only, on a temporary basis in order to ensure efficacy and sustainability process.	Implemented						N/A
			<input type="checkbox"/>	Warden/CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure ALL staff are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress						



SATF TRACKING TOOL

Link to add proof of practice: SATF Tracking Tool SharePoint for Proof of Practice by Line Item

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL					HQ LEVEL						
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice		
12	Providers must be retrained on the availability and process for ordering non-formulary DME and SATF's obligation to provide accommodations based on the individualized needs of incarcerated people. Providers should be trained that there is never a situation in which they can deny a request for DME because the DME is "not available."	CCHCS	<input checked="" type="checkbox"/>	CEO	Training was given to the providers on processes outlined with the current LOPs and HCDDOM as well as the Reasonable Accommodation Requirements and expectations outlined in the Retention of Reasonable Accommodation Requirements Memo dated October 28, 2022 on December 1, 2022. (proof of practice to be provided).	Completed	Uploaded 04/06/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A	N/A	
			<input checked="" type="checkbox"/>	CEO	SATF Healthcare/Custody leadership and SMEs will form a policy workgroup in order to update the DME LOP. The LOP will include current HCDDOM policy verbiage as well as outlining SATF's procedure for ordering non-formulary DME and any accommodations needed.	Completed	Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A	N/A	
			<input checked="" type="checkbox"/>	CEO	A workflow will be created in order to assist staff with this process.	Completed	Uploaded 04/06/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	CEO	The Availability of Medical Equipment Dashboard will be monitored by the primary care teams. Staff identifying DME concerns will submit an eHCIR. DME discussions to occur daily as part of Careteam Huddles.	Completed	N/A	<input type="checkbox"/>	N/A	N/A	N/A	N/A	N/A	N/A
			<input type="checkbox"/>	CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure health care staff are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress								

SATF TRACKING TOOL

		Link to add proof of practice:					SATF Tracking Tool SharePoint for Proof of Practice by Line Item					
Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL					HQ LEVEL				
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
13	SATF healthcare leadership must revise the LOP to implement a clear procedure for the repair and replacement of DME. This procedure must outline the process, deadlines, and accountabilities for replacing and repairing DME in both emergency and nonemergency situations.	BOTH	<input checked="" type="checkbox"/>	Warden/CEO	SATF Healthcare/Custody leadership and SMEs will form a policy workgroup in order to update the DME LOP. The LOP will include current HCDDM policy verbiage as well as outlining SATF's procedure for replacing and repairing DME in both emergency and nonemergency situations.	Completed	Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	Warden/CEO	The LOP will include the process for who a class member reports to, who is responsible to provide a loaner DME, a deadline for providing the loaner DME, and responsible staff required to repair/replace DME.	Completed	Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	Warden/CEO	A wheelchair and walker Repair request form will be created and incorporated into the LOP as well.	Completed	Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	Warden/CEO	Staff identifying DME concerns will submit an eHCIR.	Completed	Uploaded under item 2B on 06/08/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input type="checkbox"/>	Warden/CEO	Once LOPs are revised and approved, a TIC will be generated in order to ensure health care staff are trained according to the revisions. Proof of practice to be provided within 30 days upon completion of the training.	In Progress						





SATF TRACKING TOOL

Link to add proof of practice: SATF Tracking Tool SharePoint for Proof of Practice by Line Item

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL					
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
15	Members of the RAP must be retained to emphasize they have an independent duty to provide DME where it is a reasonable accommodation, regardless of whether providers believe the DME is "medically necessary."	BOTH	✓	Warden/CEO	All RAP members completed in person training on providing Reasonable Accommodation on January 18, 2023.	Completed	POP uploaded 04/06/23	✓	CCHCS Corrections Services – Field Ops	On November 30, 2022 and December 7, 14 and 21, 2022 a CCHCS and DAI SME on the RAP process held focused training at SATF for all RAP members. All RAP policy to include the Interim Accommodation Process, Disability Verification Process and the provision of DME and other accommodations regardless of medical necessity were emphasized.	Completed	Proof of practice memos added
					RAP members are actively providing DME/reasonable accommodations when deemed appropriate and necessary.	Completed	POP uploaded 04/06/23					
					For the month of December, CCHCS and DAI had a subject matter expert attend RAP on a weekly basis. Provided ongoing training and will continue on an ongoing basis.	Completed	N/A					
<b>OTHER ASSISTIVE DEVICES</b>												
16	SATF must ensure inoperable low vision assistive devices, such as Mirins and Optelecs, in its libraries are repaired or replaced. SATF ADA staff should regularly audit, via walking tours or another means, whether low vision assistive devices are functional.	CDCR	✓	Warden	SATF Library staff will conduct an initial assessment of all existing auxiliary aids located in the library and identify those that are not functional. A plan to repair or replace the non-functioning devices will be developed.	Completed	Quarterly inventory form was uploaded on 4/11/23 to indicate status of the devices in each library.	✓	N/A	N/A	N/A	N/A
					On-going audits by library supervisors and ADA staff of the equipment will be on-going.	Completed	Quarterly inventory form uploaded 4/11/23.					

SATF TRACKING TOOL

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Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL					HQ LEVEL				
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
17	Healthcare providers and staff at SATF who order supplies should be retrained that they are responsible for communicating with the medical supply warehouse if there are problems with their orders. Healthcare staff and all members of the RAP should also be reminded of the responsibility to provide individualized disability accommodations, even if doing so requires ordering nonformulary items.	BOTH	<input type="checkbox"/>	Warden/CEO	DME PAR Levels, Procurement schedules, and organized storage will be established through ongoing rollout of Kanban system for all patient care areas including TTA, R&R and clinics.	In Progress	N/A	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	Warden/CEO	Staff will be retrained on supply chain processes and ordering for medical supplies.	Complete	POP Uploaded 4/11/23					
			<input checked="" type="checkbox"/>	Warden/CEO	All RAP members completed in person training on providing Reasonable Accommodation on January 18, 2023.	Completed	POP uploaded 04/06/23					
			<input checked="" type="checkbox"/>	Warden/CEO	RAP members are actively providing DME/reasonable accommodations when deemed appropriate and necessary.	Completed	POP uploaded 04/06/23					
			<input checked="" type="checkbox"/>	Warden/CEO	For the month of December, CCHCS and DAL had a subject matter expert attend RAP on a weekly basis. Provided ongoing training and will continue on an ongoing basis.	Completed	N/A					

SUPPLIES



SATF TRACKING TOOL

		Link to add proof of practice:										
		INSTITUTION LEVEL					HQ LEVEL					
Item #	Recommendation / Description	DAG Defined	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
18	Training regarding the ordering of supplies should include as a teachable moment the example of pull-ups discussed in this report.	BOTH	<input checked="" type="checkbox"/>	CEO	DME PAR Levels, Procurement schedules, and organized storage will be established through ongoing rollout of Kanban system for all patient care areas including TTA, R&R and clinics.	In Progress	N/A	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	CEO	Staff will be retrained on supply chain processes and ordering for medical supplies.	Completed	POP Uploaded 4/11/23					
			<input checked="" type="checkbox"/>	CEO	Healthcare staff and all members of the RAP should also be reminded of the responsibility to provide individualized disability accommodations, even if doing so requires ordering nonformulary items. Training will be provided to all SATF staff on the Reasonable Accommodation requirements and expectations outlined in the Retention of Reasonable Accommodation Requirements Memo dated October 28, 2022.	Completed	POP uploaded 04/10/23	<input type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	CEO	Proof of practice to be provided within 30 days upon completion of the training.	Completed	POP uploaded 04/10/23					

SATF TRACKING TOOL

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Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL					HQ LEVEL				
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
19	Custody and healthcare staff should be trained to provide incontinence supplies as an interim accommodation for an incarcerated person who runs out of allotted supplies or who experiences incontinence while they are awaiting evaluation by a provider.	BOTH	<input checked="" type="checkbox"/>	Warden/CEO	SATF Healthcare has implemented a trail process, the "Brown Bag"/Proactive DME Supply Process where incontinence supplies are provided to patients that are prescribed incontinence supplies on a weekly basis. Patients are encouraged to return the clinic at any time during open hours if additional supplies are needed.	Completed	POP uploaded 04/10/23	<input checked="" type="checkbox"/>	DAI HQ and HC Services	Memo titled, "Providing Incontinence Related Services and Supplies" sent to field on 8/16/2022	Completed	Proof of practice memorandum uploaded to folder.
			<input type="checkbox"/>	Warden/CEO	Plan to develop self-monitoring audits. Self-monitoring audits are intended for internal use only, on a temporary basis in order to ensure efficacy and sustainability of the newly implemented process.	In Progress						
			<input checked="" type="checkbox"/>	Warden/CEO	All housing units keep a stock of incontinence related supplies and PAR levels have been established. An LOP addendum has been created to incorporate this process and training is in process for all staff.	Completed	POP uploaded 04/10/23	<input checked="" type="checkbox"/>				
			<input checked="" type="checkbox"/>	Warden/CEO	Proof of practice to be provided within 30 days upon completion of the training.	Completed						
<b>DEAF AND HARD OF HEARING ACCOMMODATIONS</b>												
20	SATF leadership must devise a system for auditing staff communication of announcements to deaf people at SATF.	CDCR	<input checked="" type="checkbox"/>	Warden	SATF will explore accommodations for communication, including the specific recommendations made in the Court Expert's Report, and train staff and the patients on the availability of the accommodations.	Completed				N/A	N/A	

SATF TRACKING TOOL

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Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL					
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
21	Staff should include adequate information in SCMS or healthcare records to note when deaf people can speak but require healthcare staff to write notes to them. Healthcare staff should be trained that some deaf people can speak but cannot sign and how to correctly accommodate those class members.	BOTH	<input checked="" type="checkbox"/>	Warden/CEO	SATF will be retrained on the criteria outlined in the Effective Communication LOP with emphasis on utilization of the patient's identified primary and secondary methods of communication.	Completed		<input checked="" type="checkbox"/>	DAI HQ and Corrections Services	Memo titled, "Reiteration of Reasonable Accommodation Requirements" issued on 10/28/2022	Completed	Completed - Proof of practice memorandum saved in folder.
			<input type="checkbox"/>	Warden/CEO	Proof of practice to be provided within 30 days upon completion of the training.	In Progress						
22	SATF must ensure that deaf people who cannot sign have access to TTY/TDD phone calls, or an alternative accommodation such as captioned video calls, and are educated on how to request those calls and use the service.	CDCR	<input checked="" type="checkbox"/>	Warden	SATF will explore accommodations for communication, including the specific recommendations made in the Court Expert's Report, and train staff and the patients on the availability of the accommodations.	Completed		DAI HQ	Memo Titled, "UPDATED AMERICANS WITH DISABILITIES ACT CAPTION PHONE PURCHASE AND IMPLEMENTATION AT VIAPATH INSTITUTIONS"	Completed	Completed - Proof of practice memorandum saved in folder.	
23	As an immediate accommodation, SATF should, whenever possible, utilize Microsoft Teams in settings when staff are using a computer to interact with deaf people who cannot sign.	CDCR	<input checked="" type="checkbox"/>	Warden	SATF will train staff on the expectations outlined in statewide memorandum dated March 6, 2023 - Utilization of Webex for Real-Time Captioning During Due Process Events For Hearing-Impaired Inmates. SATF will also develop an LOP as indicated in the memorandum.	Completed		DAI HQ	Memo titled, "REVISED UTILIZATION OF WEBEX FOR REAL-TIME CAPTIONING DURING DUE PROCESS EVENTS FOR HEARING-IMPAIRED INMATES" and Memo titled, "	Completed	Completed - Proof of practice memorandum saved in folder.	
24	CDCR must implement CART or an alternative reasonable accommodation for deaf people who cannot sign to access programming and education at SATF. CDCR must provide a specific proposal for how SATF will implement CART or an alternative reasonable accommodation.	CDCR	<input type="checkbox"/>	N/A	N/A	N/A		CDCR (CAMU/EIS)	CDCR is exploring CART and alternatives for deaf people who cannot sign and rely on written notes for their primary or secondary form of EC.  Contract has been sent to Cal Interpreting and Translation Services for review and signature. CAMU/EIS currently finalizing policy memo for implementation at SATF tentatively scheduled for July 2023.	In Progress	Joint CDCR/CCHCS CART memo in draft and has been shared with PC	



**SATF TRACKING TOOL**

**Link to add proof of practice:** [SATF Tracking Tool SharePoint for Proof of Practice by Line Item](#)

Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL				HQ LEVEL				Comments / Proof of Practice	
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan		Implementation Status
<b>29</b>	Healthcare staff should not have access to the RVR system in SOMS. Staffing	BOTH	✓	CEO	In person training has been provided to all on-site Healthcare staff members at SATF with the direction that healthcare staff shall not generate any RVRs under any circumstance. Proof of practice to be collected and provided.	Completed	Proof of practice saved in folder	<input type="checkbox"/>	Corrections Services	Develop proposal to limit the access for WRITING RVRs through SOMS to minimal HC institutional staff	Memo is currently with Labor for review. Updates to the LMS is being developed for all healthcare providers.	Proposal underway. Memo drafted for Labor. Prep tool and notice to Labor is in progress.
<b>30</b>	CDCR should consider the addition of an upper-level management position, such as a captain, in the ADA Office of SATF.	CDCR	✓	N/A	N/A	N/A	N/A	✓	DAI HQ	CDCR will consider staffing recommendations.	No longer tracking	
<b>31</b>	CDCR should consider offering special incentives for ADACs who remain in the position longer than three years.	CDCR	✓	N/A	N/A	N/A	N/A	✓	DAI HQ	CDCR will consider staffing recommendations.	No longer tracking	
<b>32</b>	CDCR should consider the addition of a second lieutenant position to supervise FTS sergeants at SATF.	CDCR	✓	N/A	N/A	N/A	N/A	✓	DAI HQ	CDCR will consider staffing recommendations.	No longer tracking	

**HCARE RVRs**

SATF TRACKING TOOL

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Item #	Recommendation / Description	DAG Defined	INSTITUTION LEVEL					HQ LEVEL				
			Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
33	Custody staff should be retrained on the requirement to monitor pill lines. Custody supervisors should regularly supervise pill lines on their yards to assess whether custody staff are complying with this requirement.	CDCR	<input checked="" type="checkbox"/>	Warden	Custody staff shall receive additional training in regards to the requirement to monitor pill pass.	Completed	To be provided	<input checked="" type="checkbox"/>	N/A	N/A	N/A	N/A
			<input checked="" type="checkbox"/>	CEO	SATF Healthcare will be implementing quarterly Town Hall meetings.	Completed	N/A					
			<input type="checkbox"/>	CEO	SATF Healthcare will be developing an employee engagement survey.	In Progress						
34	Healthcare leadership should resume the practice of town halls to solicit feedback from healthcare staff regarding how their jobs could be streamlined or better supported. When possible, leadership should report back to healthcare workers in subsequent town halls on what action they took as a result of the requests and feedback of healthcare staff.	CCHCS	<input checked="" type="checkbox"/>	CEO	SATF provides mandatory annual training focused on correctional fatigue and stress resiliency.	Completed-Ongoing	N/A	<input checked="" type="checkbox"/>	CDCR OEW	CDCR Office of Employee Wellness already has a number of training sessions dealing with employee burnout and secondary trauma.	Ongoing training	3-hour Wellness and Stress Resiliency IST. Core tasks include: Learn about the different aspects of wellness and how stress and other negative factors can impact wellness; learn how to manage wellness through positive coping skills; understand how to build resiliency and improve wellness; become familiar with tools and resources to help mitigate and overcome some of the inherent stressors associated with working in a correctional environment.
			<input checked="" type="checkbox"/>	CEO	SATF Healthcare Leadership is expected to meet with staff at least monthly.	Completed	N/A					
			<input checked="" type="checkbox"/>	CEO	Staff are reminded of available resources such as Peer Support, Chaplain Services and the CDCR Wellness App are shared with staff on a monthly basis.	Completed	N/A					
36	Custody and healthcare leadership's job performance should be assessed based on their success in self-auditing their institution and identifying and correcting system failures.	BOTH	<input type="checkbox"/>	Warden/CEO	SATF and CDCR will evaluate if additional performance based metrics are necessary and appropriate in addition to existing metrics in the statewide employee performance evaluation process.	In Progress	N/A	<input type="checkbox"/>	N/A	N/A	N/A	N/A

CULTURE AND LEADERSHIP



SATF TRACKING TOOL

Item #	Recommendation / Description	INSTITUTION LEVEL						HQ LEVEL				
		DAG Defined	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice	Tracking Completed?	Action Required by	Proposed Action Plan	Implementation Status	Comments / Proof of Practice
37	In light of the problems outlined in this report, CDCR should consider changing the makeup of the population at SATF to enable it to better serve the population it houses.	CDCR	<input type="checkbox"/>	N/A	N/A	N/A	N/A	<input type="checkbox"/>	DA   HQ	CDCR/CCHCS are considering.	In Progress	
38	We also find that staff and leadership need additional support to be able to identify and remedy such systemic problems and to adequately accommodate class members (Page 8 of 67).	N/A	✓	N/A	N/A	N/A	N/A	✓	HQ/INSTITUTION	Many changes have been made at SATF since the Court Experts Review, including the CNA program, new ceo & warden, revised DME LOP, RAP training, HFM special review, OMA focused review, Corrections Services special review, town halls, etc.	Completed - Ongoing	Areas reviewed include EC, Cleanliness of Clinics and CTC, 7362 Scanning of Forms, Appointment Scheduling, HCCA Training, DME process during transferring, RVRs. Proof of practice report provided in folder.
39	OMA Report Dated 10/14/22 Findings Follow Up (Page 13 of 67).	N/A	✓	Warden/CEO	SATF Healthcare and Custody will work together on significant OMA findings to improve audit findings.	Completed	Uploaded 05/25/23	✓	Corrections Services	A special review was conducted by Field Operations, Corrections Services staff on September 13 through September 14, 2022, at the Substance Abuse Treatment Facility (SATF).	Completed	Complete. Proof of practice report provided in folder.
40	HCFS CMU Report Dated 10/14/22 Findings Follow Up (Page 13 of 67).	N/A	✓	N/A	N/A	N/A	N/A	✓	Corrections Services	Corrections Services has completed a follow up review. This report has been finalized as of Jan 16, 2023.	Completed	Complete. Proof of practice report provided in folder.
41	ONG Report Dated 09/2021 Findings Follow Up (Page 20 of 67).	N/A	✓	CEO	Report findings to be reviewed at Quality Management Committee. Any In Progress actions to be addressed at that time.	Completed	N/A	✓	CHCS Audit Team (IAP)	COHCS' Cycle 6 OIG MIP.	Completed - Ongoing	Current document version uploaded to POP. Tracking ongoing via this document.
42	In one case, the difference was simple: one healthcare professional made a practice of asking the patient at the end of every encounter "is there anything else you need?". Just asking that question can make the difference between a patient feeling his needs are being addressed and one who feels he must advocate aggressively to receive medical attention.	N/A	✓	CEO	Suggestions to be communicated to healthcare staff.	Completed	N/A	✓	Dr. Bick	Dr. Bick working to ensure encounters with PCPs have this question asked.	Completed - Ongoing	Per HC Services, This has already been communicated to the PCPs and continues to be communicated via the Physician Leadership Meetings.

Link to add proof of practice: SATF Tracking Tool SharePoint for Proof of Practice by Line Item

# **EXHIBIT 18**

State of California

Department of Corrections and Rehabilitation

## Memorandum

Date: April 27, 2023

To: Rana Anabtawi, Prison Law Office

Subject: **PRISON LAW OFFICE DOCUMENT PRODUCTION REQUEST – SUBSTANCE ABUSE TREATMENT FACILITY (SATF) TOUR**

The California Department of Corrections and Rehabilitation (CDCR) provides the attached Rules Violation Reports (RVRs) in response to Plaintiffs' January 17, 2023 request for production of "all RVRs issued and/or initiated by any member of the healthcare staff, including healthcare access unit custody staff, since June 2022 to present, even if later voided, withdrawn, or dismissed." Included in this production are copies of the available RVRs listed in the document provided to Plaintiffs during the March 14-15, 2023 SATF site visit, as well as three additional RVRs that were identified following the site visit.

Nearly 3,600 RVRs were issued by staff at SATF between June 1, 2022 and January 31, 2023. CDCR's computer system currently does not sort RVRs by the classification of the staff member "issuing or initiating" the RVR, and it is not routine practice to categorize RVRs this way. Accordingly, CDCR staff across various divisions worked together to narrow down the number of potentially responsive RVRs, and then manually reviewed those RVRs to identify those responsive to this request. CDCR identified the attached RVRs as responsive to Plaintiffs' request based on its manual, individual review of nearly one quarter of the RVRs issued at SATF in the requested time period. This new process diverted staff from their regular duties and took weeks to complete. At this time, CDCR does not plan to continue reviewing the remaining RVRs issued during that time period in connection with this request.

Thank you.

cc: Clark Kelso, Receiver  
Connie Gipson, Director, DAI  
Ron Davis, Acting Deputy Director, Facility Operations, DAI  
Matthew Atchley, Associate Director, DAI  
Joseph (Jason) Williams, Acting Director, Corrections Services, CCHCS  
DeAnna Gouldy, Deputy Director, Policy and Risk Management Services, CCHCS  
Chris Podratz, Regional Executive, Regions III, CCHCS  
Bryan Phillips, Acting Warden, SATF  
Dr. Anu Banerjee, CEO, SATF  
Jerry Ourique, Associate Warden, Healthcare Operations, SATF  
Office of Legal Affairs, CDCR  
Office of the Attorney General  
Hanson Bridgett, LLP  
CCHCS Office of Legal Affairs

# **EXHIBIT 19**

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**From:** CDCR-OLA Plata CAT Mailbox <m\_OLAPlataCAT@cdcr.ca.gov>  
**Sent:** Monday, August 7, 2023 1:01 PM  
**To:** Sara Norman  
**Cc:** ahardy@prisonlaw.com; dspecter@prisonlaw.com; sfama@prisonlaw.com; rana@prisonlaw.com; sophieh@prisonlaw.com; anorris@prisonlaw.com; dewi@prisonlaw.com; Rita Lomio; Audrey Lim; Margot Mendelson; Jacob Hutt; Claudia Ceseña; Marissa Hatton; Tania Amarillos-Diaz; Tovah Ackerman; Skye Lovett; Ilian Meza-Peña; Patrick Booth; Tess Borden; A. D. Lewis; Armstrong Team - RBG only; ckelso@pacific.edu; Kelso, Clark@CDCR; Foss, Tammy@CDCR; Gipson, Connie@CDCR; Toche, Diana@CDCR; Dovey, John@CDCR; Barrow, Roscoe@CDCR; Hartmann, Sarah@CDCR; Yang, Mellonie@CDCR; Burkart, Brianne@CDCR; Saich, Lara@CDCR; Bick, Dr. Joseph@CDCR; Larson, Cheryl@CDCR; Heintz, Lisa@CDCR; Gouldy, DeAnna@CDCR; Hart, Robin@CDCR; Oltean, Amanda@CDCR; Blackwood, Allan@CDCR; Lopez, Kristine@CDCR; Martinez, Leticia@CDCR; Williams, Joseph@CDCR; CDCR CCHCS Health Care Compliance Support Section; Pmello@hansonbridgett.com; SWolff@hansonbridgett.com; DCasarrubias@hansonbridgett.com; CNIello@hansonbridgett.com; Neill, Jennifer@CDCR; Davis, Ronald@CDCR; Stafford, Carrie@CDCR; Damon.McClain@doj.ca.gov; Iram.Hasan@doj.ca.gov; CDCR-OLA Plata CAT Mailbox; Ed Swanson; audrey@smllp.law; Deol, Harinder@CDCR; Ferguson, Patricia@CDCR; Davis, Tamiya@CDCR; Powell, Alexander@CDCR; Meyer, Nicholas@CDCR; Thao, Chor@CDCR; Ruiz, Ramon@CDCR; CDCR OLA Armstrong CAT Mailbox; Sharon Garske; trace.maiorino@doj.ca.gov; Sean Lodholz; Mark Jackson; olena.likhachova@doj.ca.gov; Napier, Rachel; Houston, Mona@CDCR; White, Lourdes@CDCR; Hernandez, Jillian@CDCR; Fleshman, Timothy@CDCR; Lo, Cory@CDCR; Beland, Bruce@CDCR; Gaultney, Robert@CDCR; Chuidian, Sandra; Welch, Lois@CDCR; Faris, Steven@CDCR; Rios, David@CDCR; Jefferson, Cathy@cdcr; Anderson, Jason@CDCR; Lorey, Dawn@CDCR; Moses, Jane@CDCR; Tonis, Alexandra@CDCR; joshua.LeonGuererro@cdcr.ca.gov; Perez, Aaron@CDCR  
**Subject:** RE: Plata and Armstrong plaintiffs' position on RVRs by medical staff  
**Attachments:** 2023.05.26 Memo-BPH Process for Disclosing Voided Not Guilty RVRs in Advance of Parole Hrgs.pdf; Plata - Plaintiffs' Requests for RVRs (262 KB)

Dear all,

Each class action has established processes for Plaintiffs to request information and we recommend that those processes be followed. The May 8, 2023 e-mail, from Sara Norman, regarding RVRs, which included a series of questions, appears to be directed towards several class actions. *Plata* Defendants' responses to those questions are below. *Plata* Defendants have already addressed many of these questions in the April 28, 2023 *Plata* CMC statement and an email from *Plata* Defendants' litigation counsel on June 16, 2023 (attached).

1. At the meeting, it appeared that CCHCS agreed that patient behavior observed by healthcare staff should result in an RVR only in rare circumstances, and in particular (a) after healthcare staff completes an 837 following a serious incident, or (b) for repeated behavior in inpatient settings, where patients cannot be asked to leave. Is that correct? Is that policy documented anywhere?

*Plata Defendants' counsel were not invited to the March 6, 2023 meeting. Accordingly, Plata Defendants are unable to comment on your impressions from that meeting. As reported in the April 28, 2023 Plata CMC statement (ECF No. 3852 at 8:13-16), CDCR and CCHCS are developing written policy clarifying medical staff's role in the Rules Violation Report (RVR) process. The parties will be notified when that policy is issued. Other*

*policies regarding RVRs are documented in Title 15 and CDCR's Department Operations Manual. See, e.g., DOM Chapter 5, Article 23; and Title 15 sections 3312, 3314, and 3315.*

2. At the meeting, Director (now Undersecretary) Foss reported that an audit of RVRs initiated by healthcare staff over a six-month period identified 500 RVRs, and a large portion of them were inappropriate. Have those RVRs been voided? Are they removed from view by BPH? And will CCHCS or CDCR conduct similar audits to ensure that previously-issued RVRs that are improper are voided?  
*Plata Defendants' counsel were not invited to the March 6, 2023 meeting. Accordingly, Plata Defendants are unable to comment on your impressions or questions regarding what was said during that meeting. However, Defendants are aware that CCHCS conducted an extremely labor-intensive, one-time audit of RVRs with violation dates in the first half of 2022. CCHCS found that out of over 51,000 RVRs issued statewide, approximately 500 RVRs were issued by healthcare staff. Some, but not all of these RVRs were voided because the classification of the staff issuing the RVR alone does not make an RVR "inappropriate." Except in limited circumstance, BPH can view voided RVRs. (See attached Memorandum, dated May 26, 2023.)*
3. In preparation for and during the *Plata* visit to SATF in March, we were told that CDCR cannot easily pull from SOMS a list of all RVRs where healthcare staff was the reporting employee and that healthcare supervisors were not reviewing such RVRs. *This remains true. See attached June 16, 2023 email and the response to question 2 above.*  
Ms. Foss's description of an auditing process appears to show otherwise. If CDCR and CCHCS do not currently have the capability to track RVRs where healthcare staff were the reporting employees, you must develop that capacity promptly. These RVRs must be tracked and reviewed. We ask that you provide an update as to what CDCR and CCHCS are doing to ensure that supervisors review all RVRs (including Counseling Only RVRs) generated by medical staff, and all reports by medical staff to custody of behavior that might generate an RVR. *CDCR and CCHCS anticipate that the forthcoming policy regarding medical staff's involvement in the RVR process will allow for a simplified monitoring process.*  
Please also report whether this information will be flagged by the early warning system such that managers can be alerted when a particular staff member engages in a pattern of reporting patient behavior resulting in RVRs such that action can be taken to determine whether that employee needs additional training or support. *The early warning system is not part of the Plata class action.*
4. CCHCS stated that they are in the process of removing SOMS access for a majority of staff. Which healthcare staff will have access to SOMS once that process is complete?  
*The forthcoming policy on medical staff's involvement in the RVR process will address this. At a minimum, CDCR and CCHCS anticipate that each institution's Chief Executive Officer, their administrative staff, and the Chief Support Executive will have access to SOMS.*
5. Please produce information regarding Behavioral Management Plans/Positive Behavioral Support Plans, including any policies regarding where such plans and whether patients are progressing towards the goals in those plans are documented.  
*The Behavioral Management Plans and Positive Behavioral Support Plans are not part of the Plata class action.*
6. What alternatives to the RVR process are available or being contemplated?  
*The forthcoming policy CDCR and CCHCS are developing will address this. RVRs will continue to exist as a tool for custody and appropriate healthcare staff's use. Alternative strategies to address certain behaviors before resorting to RVRs, when appropriate, are also being considered.*

Thank you,

**Plata Team**

**Office of Legal Affairs**

**California Department of Corrections and Rehabilitation**

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**From:** Sara Norman <snorman@prisonlaw.com>

**Sent:** Monday, May 8, 2023 11:33 AM

**To:** ckelso@pacific.edu; Kelso, Clark@CDCR <Clark.Kelso@cdcr.ca.gov>; Foss, Tammy@CDCR <Tammy.Foss@cdcr.ca.gov>; Gipson, Connie@CDCR <Connie.Gipson@cdcr.ca.gov>; Toche, Diana@CDCR <Diana.Toche@cdcr.ca.gov>; Dovey, John@CDCR <John.Dovey@cdcr.ca.gov>; Barrow, Roscoe@CDCR <Roscoe.Barrow@cdcr.ca.gov>; Hartmann, Sarah@CDCR <Sarah.Hartmann@cdcr.ca.gov>; Yang, Mellonie@CDCR <Mellonie.Yang@cdcr.ca.gov>; Burkart, Brianne@CDCR <Brianne.Burkart@cdcr.ca.gov>; Saich, Lara@CDCR <Lara.Saich@cdcr.ca.gov>; Bick, Dr. Joseph@CDCR <Joseph.Bick@cdcr.ca.gov>; Larson, Cheryl@CDCR <Cheryl.Larson@cdcr.ca.gov>; Heintz, Lisa@CDCR <Lisa.Heintz@cdcr.ca.gov>; Gouldy, DeAnna@CDCR <DeAnna.Gouldy@cdcr.ca.gov>; Hart, Robin@CDCR <Robin.Hart@cdcr.ca.gov>; Oltean, Amanda@CDCR <Amanda.Oltean@cdcr.ca.gov>; Blackwood, Allan@CDCR <Allan.Blackwood@cdcr.ca.gov>; Lopez, Kristine@CDCR <Kristine.Lopez@cdcr.ca.gov>; Martinez, Leticia@CDCR <Leticia.Martinez@cdcr.ca.gov>; Williams, Joseph@CDCR <Joseph.Williams@cdcr.ca.gov>; CDCR CCHCS Health Care Compliance Support Section <HCCComplianceSupport@cdcr.ca.gov>; Pmello@hansonbridgett.com; SWolff@hansonbridgett.com; DCasarrubias@hansonbridgett.com; CNIello@hansonbridgett.com; Neill, Jennifer@CDCR <Jennifer.Neill@cdcr.ca.gov>; Stafford, Carrie@CDCR <Carrie.Stafford@cdcr.ca.gov>; Napier, Rachel <Rachel.Napier@cdcr.ca.gov>; Damon.McClain@doj.ca.gov; Iram.Hasan@doj.ca.gov; CDCR-OLA Plata CAT Mailbox <m\_OLAPlataCAT@cdcr.ca.gov>; Ed Swanson <ed@smlp.law>; audrey@smlp.law; Ferguson, Patricia@CDCR <Patricia.Ferguson@cdcr.ca.gov>; Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>; Powell, Alexander@CDCR <Alexander.Powell@cdcr.ca.gov>; Meyer, Nicholas@CDCR <Nicholas.Meyer@cdcr.ca.gov>; Thao, Chor@CDCR <Chor.Thao@cdcr.ca.gov>; Ruiz, Ramon@CDCR <ramon.ruiz@cdcr.ca.gov>; CDCR OLA Armstrong CAT Mailbox <OLAArmstrongCAT@cdcr.ca.gov>; Sharon Garske <Sharon.Garske@doj.ca.gov>; trace.maiorino@doj.ca.gov; Sean Lodholz <sean.lodholz@doj.ca.gov>; Mark Jackson <Mark.Jackson@doj.ca.gov>; olena.likhachova@doj.ca.gov; Houston, Mona@CDCR <Mona.Houston2@cdcr.ca.gov>; White, Lourdes@CDCR <Lourdes.White@cdcr.ca.gov>; Hernandez, Jillian@CDCR <Jillian.Hernandez@cdcr.ca.gov>; Fleshman, Timothy@CDCR <Timothy.Fleshman@cdcr.ca.gov>; Lo, Cory@CDCR <cory.lo@cdcr.ca.gov>; Beland, Bruce@CDCR <Bruce.Beland@cdcr.ca.gov>; Gaultney, Robert@CDCR <Robert.Gaultney@cdcr.ca.gov>; Chuidian, Sandra <Sandra.Chuidian@cdcr.ca.gov>; Welch, Lois@CDCR <Lois.Welch@cdcr.ca.gov>; Faris, Steven@CDCR <Steven.Faris@cdcr.ca.gov>; Rios, David@CDCR <David.Rios@cdcr.ca.gov>; Jefferson, Cathy@cdcr <Cathy.Jefferson@cdcr.ca.gov>; Anderson, Jason@CDCR <Jason.Anderson@cdcr.ca.gov>; Lorey, Dawn@CDCR <Dawn.Lorey@cdcr.ca.gov>; Moses, Jane@CDCR <Jane.Moses@cdcr.ca.gov>; Tonis, Alexandria@CDCR <Alexandrea.Tonis@cdcr.ca.gov>; joshua.LeonGuererro@cdcr.ca.gov; Perez, Aaron@CDCR <Aaron.Perez@cdcr.ca.gov>

**Cc:** ahardy@prisonlaw.com; snorman@prisonlaw.com; dspecter@prisonlaw.com; sfama@prisonlaw.com; rana@prisonlaw.com; sophieh@prisonlaw.com; anorris@prisonlaw.com; dewi@prisonlaw.com; Rita Lomio <rlomio@prisonlaw.com>; Audrey Lim <audrey@prisonlaw.com>; Margot Mendelson <mmendelson@prisonlaw.com>; Jacob Hutt <jacob@prisonlaw.com>; Claudia Ceseña <claudia@prisonlaw.com>; Marissa Hatton <mhatton@prisonlaw.com>; Tania Amarillos-Diaz <tania@prisonlaw.com>; Tovah Ackerman <tovah@prisonlaw.com>; Skye Lovett <skye@prisonlaw.com>; Ilian Meza-Peña <ilian@prisonlaw.com>; Patrick Booth <patrick@prisonlaw.com>; Tess Borden <tess@prisonlaw.com>; A. D. Lewis <adlewis@prisonlaw.com>; Armstrong Team - RBG only <ArmstrongTeam@rbgg.com>

**Subject:** Plata and Armstrong plaintiffs' position on RVRs by medical staff

**CAUTION:** This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear all:

Thank you for the discussion on March 6, 2023, regarding RVRs initiated by healthcare staff. We appreciate that the parties share the common goals of a patient-centered care in a positive work environment for healthcare staff. Plaintiffs' counsel in *Armstrong* and *Plata* remain concerned that in the absence of a better alternative, CCHCS relies on a punitive CDCR RVR process that is ineffective as well as harmful to patients and creates or escalates unnecessarily adversarial relationships between healthcare staff and the people in their care. We would like to clarify our position and make some follow-up questions and requests.

RVRs should never be initiated by health care staff, since they are not law enforcement personnel, and policy and procedure should so state. When health care staff take on law enforcement functions, the caregiver-patient relationship is damaged in a way that can lead to serious patient harm. Many patients cannot and will not confide essential care information to people they see as cops.

Medical staff sometimes witness what they perceive as serious violations of CDCR rules and reporting requirements should provide direction for these situations. We believe that medical staff should not report patient behavior unless (a) they themselves have experienced or witnessed it, and (b) they believe it constitutes a crime. (We do not object to Title 15's reporting requirements on use of force by staff.) To the extent Title 15 requires otherwise, it should be amended. This means that medical staff should never write Counseling Only RVRs (and custody staff should not write Counseling Only RVRs based on reports from medical staff), because the behavior included in such write-ups is not criminal in nature. Instead, written policy and training should direct medical staff to take alternative steps to correct problematic behavior that does not rise to the level of criminal activity, and supervisors and administrators should provide support and guidance to staff in taking those steps.

Medical staff have a duty to provide compassionate, patient-centered care. We recognize that this can be challenging in prison and that it is rendered even more difficult in a small subset of cases by abusive behavior from patients. CDCR and CCHCS must provide guidance and support to nurses and others in maintaining a compassionate patient-centered approach in all cases. But we do not think that RVRs are an appropriate approach: punishment is widely understood to be of extremely limited efficacy as a behavior change model and as stated above, it damages rather than repairs relationships between patients and caregivers. When the nurse-patient relationship breaks down, patient care suffers. CDCR and CCHCS should develop compassionate behavior change models and approaches that support positive behavior. CDCR and CCHCS should develop programs to support nurses and others who experience difficult patient behavior, with the goal of helping staff address challenges they face and supporting humane and patient-centered care.

We are pleased that the Receiver is considering alternate forms of documenting patient behavior, including healthcare chronos that direct staff towards effective patient management techniques and improvements to the Behavioral Management Plan process that may eliminate the need to use CDCR's flawed RVR process. We look forward to working with the Receiver, Court Expert, and CDCR to support these efforts.

To help us better understand current policy, existing processes, and potential solutions, we request the following information:

1. At the meeting, it appeared that CCHCS agreed that patient behavior observed by healthcare staff should result in an RVR only in rare circumstances, and in particular (a) after healthcare staff completes an 837 following a serious incident, or (b) for repeated behavior in inpatient settings, where patients cannot be asked to leave. Is that correct? Is that policy documented anywhere?
2. At the meeting, Director (now Undersecretary) Foss reported that an audit of RVRs initiated by healthcare staff over a six-month period identified 500 RVRs, and a large portion of them were inappropriate. Have those RVRs been voided? Are they removed from view by BPH? And will CCHCS or CDCR conduct similar audits to ensure that previously-issued RVRs that are improper are voided?
3. In preparation for and during the *Plata* visit to SATF in March, we were told that CDCR cannot easily pull from SOMS a list of all RVRs where healthcare staff was the reporting employee and that healthcare supervisors were not reviewing such RVRs. Ms. Foss's description of an auditing process appears to show otherwise. If CDCR and CCHCS do not currently have the capability to track RVRs where healthcare staff were the reporting employees, you must develop that capacity promptly. These RVRs must be tracked and reviewed. We ask that you provide an update as to what CDCR and CCHCS are doing to ensure that supervisors review all RVRs (including

Counseling Only RVRs) generated by medical staff, and all reports by medical staff to custody of behavior that might generate an RVR. Please also report whether this information will be flagged by the early warning system such that managers can be alerted when a particular staff member engages in a pattern of reporting patient behavior resulting in RVRs such that action can be taken to determine whether that employee needs additional training or support.

4. CCHCS stated that they are in the process of removing SOMS access for a majority of staff. Which healthcare staff will have access to SOMS once that process is complete?
5. Please produce information regarding Behavioral Management Plans/Positive Behavioral Support Plans, including any policies regarding where such plans and whether patients are progressing towards the goals in those plans are documented.
6. What alternatives to the RVR process are available or being contemplated?

Finally, we look forward to the next meeting on this topic, which we believe was established at six months from the first meeting. In order to continue the conversation, we ask that the above information be provided by July 1.

--Sara Norman (for *Plata* and *Armstrong* plaintiffs)

Sara Norman  
Deputy Director  
Prison Law Office  
1917 Fifth Street  
Berkeley, CA 94710  
[www.prisonlaw.com](http://www.prisonlaw.com)  
*pronouns: she/her/hers*

# **EXHIBIT 20**

From	Subject	Date Sent	Explanation
G. Pelsinger; R. Lomio	Operation of the 1824 Process at CSP-SAC	3/23/2023	Written response needed. This is a prison- and state-wide issue that has gone unaddressed for too long.
C. Jackson	██████████ ██████████, SCC	3/16/2023	Written response or phone call needed. This is a retaliatory staff misconduct incident, and PMG also sent a follow-up email on 4/3/2023, which also has not received a response.
R. Lomio	Deaf Class Members' Access to 1824s	3/8/2023	Written response needed. This is a repeated issue at San Quentin that directly affects ability to access the disability accommodation system.
C. Ceseña	Concerns about the Disability Placement Program at CMF	3/6/2023	Written response needed. This letter was sent in lieu of a tour report. This letter raises violations of the ARP, and the ADA.
J. Hutt	Discriminatory RVRs issued to ██████████ ██████████ DPW, CHCF	2/23/2023	Written response needed. The issue of discriminatory RVRs issued by medical staff is unresolved prison- and state-wide, and it is important for Plaintiffs' counsel to receive Defendants' written position on such RVRs in the example of Mr. ██████████
P. Godbold	Death of ██████████ ██████████ DPM, DKD	2/14/2023	Written response needed. This is a staff misconduct incident regarding the death of a class member at RJD who had previously expressed safety concerns to staff members.
J. Hutt	██████████ ██████████ DPW, DNH, DPV, HDSP	12/29/2022	Written response needed. Defendants' prison- and state-wide policy regarding class members' access to braille equipment and envelope accommodations for braille documents is still unclear.
A. Norris; R. Lomio	Direct Threat Assessments and Access to Reasonable Accommodations	12/12/2022	Written response needed. This is a prison- and state-wide issue, and Plaintiffs need Defendants' position to determine whether discussions are necessary.
J. Winter	██████████ ██████████, MCSP	12/7/2022	Written response needed regarding handling of RVR for fighting, after he was attacked. We requested not guilty finding since voided in the interest of justice will still be considered by BPH and he is a lifer.
P. Godbold	Attempted Murder of Two Class Members at RJD	11/18/2022	Written response needed. This is a staff misconduct incident regarding the attempted member of two class members who had previously reported safety concerns.
T. Nolan	██████████ ██████████ LAC	11/14/2022	Written response needed. This letter raises staff misconduct issues and the lack of accommodations for those who cannot read, write, or understand well.
R. Lomio	Objections to OIA Investigation ██████████ ██████████ (Failure to Protect Class Member at SATF)	11/4/2022	Written response needed. This letter raises serious concerns with Defendants' failure to review and modify policy to protect people with disabilities from harm. Defendants still have not reported that they have implemented a system to do so, which will be critical to sustainable compliance measures. Defendants agreed on 3/21/23 to prioritize a response to Part VI of this letter, but we have not received a response to date.
T. Amarillas; P. Booth	Physical Plant Concerns at COR	10/18/2022	This letter was sent in lieu of a tour report. We would like a formal response to this letter due to serious safety concerns with the physical plant at COR
G. Pelsinger; R. Lomio	Non-Compliant ADA Shower at CSP-Sacramento	10/13/2022	This letter addresses unsafe and noncompliant accessibility features in the STRH shower.
J. Hutt; A. Norris	Staff Misconduct Toward Armstrong Class Members at California Health Care Facility	10/5/2022	Written response needed. This is a longstanding, important issue that Plaintiffs' have repeatedly raised to Defendants without response, and Defendants' inaction continues to subject class members to staff misconduct in violation of the ARP, ADA, and court orders.

A. Norris	Armstrong & Coleman Letter re Staff Misconduct at CMF	9/23/2022	We need a response to this considering the ongoing risk of harm to class members at CMF that to date has been unaddressed by CDCR.
P. Booth	Inadequate 1824 Responses at COR	9/23/2022	This letter concerns significant issues with the 1824 process at CSP-COR, and we would like a response to it to determine what steps, if any, Defendants took to address the RAP's deficiencies.
J. Hutt	Access to existing auxiliary aids at CHCF and accompanying declarations	9/21/2022	Written response needed. It is unclear to Plaintiffs' counsel whether CHCF will take steps, such as those taken at other prisons like CMF, to make currently stocked auxiliary aids available to blind and low-vision class members outside restricted locations, and if not, why not.
G. Pelsinger; M. Mendelson	Inadequate CDCR 1824 Process at Salinas Valley State Prison	8/29/2022	Describes numerous long-standing concerns with SVSP's 1824 process. As this is institution-wide and describes longstanding issues, we require a response to this letter. A response could come in the form of a meeting with SVSP leadership to discuss what they have done to address these problems.
P. Booth	Mass RVRs Issued to Class Members at MCSP	8/19/2022	This letter concerns inappropriately issued RVRs at MCSP, and we are worried about ongoing issues with the RVR process at MCSP. Therefore, we would like a response to this letter.
G. Pelsinger	CIM's Failure to Accommodate Deaf Class Members and Comply with the Court's Accountability Orders	8/2/2022	Written response needed. This letter concerns two important issues at CIM: institution leadership's failure to follow local operating procedure that requires them to regularly meet with D/deaf class members, and the institution's failure to comply with the Court's Accountability Orders. The issues are significant and remain outstanding.
R. Lomio; G. Pelsinger	Defendants' Violation of the Accountability Orders and Failure to Hold Staff Accountable at CSP-SAC	5/12/2022	Written response needed.
P. Godbold	Failure to Track Disability-Related Staff Misconduct and Good-Faith Inquiry into Non-confirmed Allegations	5/11/2022	Need a written response to this. This letter raises statewide concerns regarding the proper tracking of staff misconduct allegations.
P. Godbold	Discriminatory RVR issued to class member ██████████ ██████████	5/2/2022	We request written responses for RVR advocacies. This letter raises issues about discriminatory RVRs.
P. Godbold	Issuance of Retaliatory RVRs for Filing Staff Complaints	4/8/2022	We request written responses for RVR advocacies. This letter raises issues about statewide concerns about retaliatory RVRs after class members file complaints.
P. Godbold	Retaliation Against Class Member Declarant ██████████ (█████████)	3/24/2022	We request written responses for all RVR advocacies. No response was given to this letter about a declarant's allegations of staff misconduct. He was paroled in November 2022.
J. Hutt	Failure to Protect Blind Class Member at SATF	1/26/2022	Written response needed. This email concerns the institution's response to and documentation of a class member's safety concerns, which remains a prison- and state-wide concern.
P. Booth	██████████ ██████████, DPM, DNH, MCSP	12/23/2021	This letter concerns inappropriately issued RVRs at MCSP, and we are concerned by ongoing issues with the RVR process at MCSP. Therefore, we would like a response to this letter.
T. Amarillas; L. Bixby; S. Hart	██████████ ██████████ SATF	11/24/2021	This letter relates to inappropriate use of RVRs at SATF.



T. Amarillas; J. Hutt	Blind and Low Vision Class Member Concerns at SATF	11/16/2021	Written response needed. Several issues identified remain of concern at the institution.
P. Booth	MCSP Facility C Third-Watch Yard Officers & Staff Misconduct	11/4/2021	During a call with Warden after MCSP Feb 2023 AMT, Warden indicated that the response was sent to OLA already; given nature of allegations, we would like to get that response.
P. Booth	MCSP C-yard Staff Misconduct	9/23/2021	Same as above.
S. Lovett; P. Booth	██████████ ██████████ DNH, DPM, LD, SATF	9/3/2021	Written response needed. This letter concerns RVRs issued by education staff, which remains a prison- and state-wide issue. Plaintiffs need Defendants' position to determine what further discussions are necessary.
R. Lomio	Objections to Non-Compliance Inquiry ██████████ and Request for OIA Investigation	8/22/2021	Written response needed. This letter raises serious concerns with Defendants' failure to review and modify policy to protect people with disabilities from harm. Defendants' still have not reported that they have implemented a system to do so, which will be critical to sustainable compliance measures.
R. Lomio; T. Amarillas	Urgent Request to Dismiss RVR Issued by Healthcare Staff at SATF to Elderly Class Member Requesting Incontinence Supplies	8/14/2021	This relates to inappropriate RVR issued to class member at SATF.
T. Ackerman	Deaf and Hard-of-Hearing Class Member Concerns at SATF	8/10/2021	Written response needed. This letter reports unresolved prison- and state-wide concerns, including prison-specific issues covered by the Court Expert's SATF Report.
G. Pelsinger; R. Lomio	██████████ ██████████, SAC	4/21/2021; 7/9/2021	Written response needed. This letter concerns serious staff misconduct issues at CSP-SAC.
R. Lomio	██████████ ██████████ DPM, SATF	6/2/2021	Written response needed. This letter reports concerns with interim accommodations and delayed provision of critical durable medical equipment, which remains a prison- and state-wide issue.
R. Lomio	██████████ ██████████, DLT, DPV, SATF	5/31/2021	Written response needed. This letter concerns RVRs issued by education staff, which remains a prison- and state-wide issue. Plaintiffs need Defendants' position to determine what further discussions are necessary.
T. Ackerman; M. Mendelson	Failure to Comply with COVID-19 Precautions in Salinas Valley State Prison's ADA Worker Program	5/21/2021	Written response needed. Requested headquarters level response and changes regarding supervision of ADA workers, and institution-level response and changes to practice of bringing ADA workers from other units into units on quarantine. Some other sections of the letter regarding COVID practices are no longer as important.
P. Godbold	██████████ ██████████ RJD re False RVR	4/26/2021	We request a written response. This letter raises concerns regarding false RVRs at RJD and has yet to receive a response.
R. Lomio	██████████ ██████████ CSP-SAC	3/26/2021	This letter concerns a discriminatory RVR issued at CSP-SAC.
P. Booth	██████████ ██████████ COR	2/4/2021	This letter concerns an inappropriately issued RVR and includes a request to void that RVR. We would like a response to this letter.
A. Norris; R. Lomio	██████████ ██████████, ██████████ DNM, SATF	11/10/2020	Written response needed. This letter raises important concerns, including implicating a pending joint audit dispute.
R. Lomio	Standing Count Procedures at SATF	11/5/2020	Written response needed. This letter and the letter below (on behalf of class member ██████████ ██████████) concern needed policy revisions that the institution failed to identify, and which, according to the most recent version of the SATF DPP OP (OP 403) produced to Plaintiffs' counsel, still have not been made.

R. Lomio; S. Lovett	██████████ ██████████ DPO, DPV, SATF	9/9/2020	Written response needed. This letter and the letter above (“Standing Count Procedures at SATF”) concern needed policy revisions that the institution failed to identify, and which, according to the most recent version of the SATF DPP OP (OP 403) produced to Plaintiffs’ counsel, still have not been made.
T. Amarillas	“Time-Expired” Grievance and Appeal Responses Related to Disability Discrimination	4/8/2022	We would like a response given longstanding issues with the grievance system, which makes it difficult for headquarters to identify and correct institution’s failures to accommodate people. We continued to see “time-expired” responses related to <i>Armstrong</i> concerns after we sent our letter.
T. Amarillas	Continued Concerns with DPP Access for Class Members at SATF with Limited English Proficiency	3/8/2022	We propose a call with headquarters to answer the questions set forth in this and other LEP letters.
R. Lomio	SATF – RVRs initiated by mental health staff	2/28/2022	Written response needed. Defendants appear to have taken no action to date regarding these serious prison- and state-wide concerns, which echo the Court Expert’s findings regarding RVRs initiated by nursing staff.
P. Godbold	Plaintiffs’ Response to July 8, 2021 Letter Regarding False and Retaliatory Rule Violation Reports Issued to Class Member Declarants	8/18/2021	Written response needed. This letter concerns false/retaliatory RVRs.
R. Lomio	DPP Access for Class Members at SATF with Limited English Proficiency	7/6/2021	We propose a call with headquarters to answer the questions set forth in this and other LEP letters.
T. Ackerman; R. Lomio	Defendants’ Failure to Protect People with Disabilities After Multiple Class Member Homicides at SATF	5/13/2021	Written response needed. This letter raises serious concerns with Defendants’ failure to review and modify policy to protect people with disabilities from harm. Defendants’ still have not reported that they have implemented a system to do so, which will be critical to sustainable compliance measures.
P. Godbold	Plaintiffs’ Good Faith Disagreement with Results of Investigations at RJD	5/12/2021	Plaintiffs request a written response to this. This letter concerns staff misconduct investigations at RJD.
R. Lomio	Inaccessible Housing at SATF and MCCs	5/10/2021	Written response needed. This remains relevant to prison- and state-wide negotiations regarding both trapeze bars, safe housing, and other housing accommodations.
S. Lovett	██████████ ██████████, DPH, LD, DD1, SATF	9/27/2022	We propose a call with headquarters to discuss the policy requiring that talking books program participants surrender their players upon release, as described in the April 25, 2022 memorandum titled “Updated Talking Book Program Guidelines.”

# **EXHIBIT 21**



**PRISON LAW OFFICE**  
 General Delivery, San Quentin, CA 94964  
 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

VIA EMAIL ONLY

April 24, 2023

Joe Bick  
 Director  
 CCHCS Health Care Services

Tamiya Davis  
 CDCR Office of Legal Affairs

*Plata v. Newsom; Armstrong v. Newsom*

RE: Provision of Sign Language Interpretation During Healthcare Encounters at SATF

Dear Dr. Bick and Ms. Davis:

We write regarding Deaf patients’ access to sign language interpretation during healthcare appointments at SATF. As of April 14, 2023, eight patients at SATF use sign language as their primary method of communication; of those, four are housed on Facility A.

In reviewing charts for patients who use sign language on Facility A, we saw entries that suggested VRI equipment was not available or not working properly.

Patient / Encounter Date	Medical Record Entry
██████████, ██████████ (Apr. 7, 2023)	Patient appointment for 7362 RN line will be rescheduled due to requiring an ASL interpreter. <b>No ASL interpreter available after 4pm; and no VRI found in A yard medical clinic nor equipment.</b> Follow up with A yard OT and RN regarding patient concern.  (RN ██████████)
██████████ ██████████ (Feb. 11, 2023)	I/P is SLI. <b>VRI SYSTEM not working. it gave x 4 to 5 Log In failed message.</b> Attempted to use transcribing to communicate with I/P, but I/P not participating or is refusing because he is in too much pain. . . .

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	<p>At approxl. 1645 hrsl, I/P came in to clinic complaining of back pain. I/P is SLI. <b>We attempted to use the VRI, but we were unable to log in. it gave us Lof In failed x 4 or 5 times.</b> we attempted to do I/P's secondary means of communication, which was through written notes, but this didn't work also because I/P is refusing to participate with communicating thru transcribing.<sup>1</sup> I then called TTA to refer and give report to TTA RN regarding I/P. This then concludes my participation with this event.</p> <p style="text-align: right;">(LVN [REDACTED])</p>
<p>[REDACTED] [REDACTED] (Dec. 27, 2022)</p>	<p>Patient seen briefly communication via <b>hand written notes</b> He is agreeable to being referred for a face to face Otolaryngology visit so a direct laryngoscopy can be done.</p> <p style="text-align: right;">(P&amp;S [REDACTED])</p>

During our *Armstrong* monitoring tour at SATF in January 2023, and in response to reports from Deaf patients of problems receiving sign language interpretation during healthcare appointments, we visited medical clinics on Facility A, Facility E, and Facility F to test VRI equipment. As we reported during the exit meeting on January 26, medical staff on Facility A were not familiar with VRI, did not have the equipment easily accessible, and even after directing us to several different staff members who might have knowledge of VRI, were unable to readily connect to VRI. Medical staff on Facilities E and F were not able to get the VRI to connect at all. On Facility E, medical staff could not figure out how to log in and got “Access Denied” messages. On Facility F, medical staff could not readily find the log-in information for VRI and then, once they located that information, could not get the video to work.

We are deeply disappointed that the problem with VRI in medical clinics persists nearly three months after we reported it to institution and headquarters staff.<sup>2</sup> As the Court Expert found in his report regarding the treatment of people with disabilities at SATF, the ability of both

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<sup>1</sup> The *Armstrong* Court has found that “Defendants harm deaf prisoners by forcing them to rely on inadequate and ineffective forms of communication, such as reading lips and written notes.” Dkt. No. 2345 at 13 (citing Dkt. No. 1045 at 3 (finding that “deaf signers are unable to understand or comprehend . . . medical care provided to them”)).

<sup>2</sup> This issue is not new. In 2018, for example, we reported failure to provide sign language interpretation for healthcare encounters on Facility A at SATF, including the failure to use VRI. See SATF June/September 2018 Tour Report at 18.

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healthcare and custody leadership to identify and address problems is critical to sustainable compliance with the *Armstrong* Remedial Plan and Americans with Disabilities Act. Dkt. No. 3446 at 57-60; *see also* Dkt. No. 3467 (adopting Court Expert's findings).

Ability to effectively operate VRI for healthcare appointments is particularly important because Defendants still have not explained how they will ensure that in-person sign language interpreters are scheduled for healthcare appointments. It appears healthcare schedulers still do not have access to Business Information Systems (BIS), which organizes staff interpreters' schedules each day, and we are told that healthcare schedulers may sometimes forget to schedule interpreters in advance.<sup>3</sup>

We ask that you please look into this and respond to the following:

1. What is the process for scheduling in-person sign language interpreters for medical appointments at SATF? On which days and during what hours are in-person interpreters available? Who from medical is responsible for scheduling an in-person interpreter, and how is that done? If there is an LOP or other written document outlining these procedures, please provide a copy.
2. Is VRI equipment available in every medical clinic at SATF? If no, why not? If yes, why was the RN unable to locate such equipment on April 7, 2023, on Facility A?
3. What, if any, action did institution, regional, or headquarters staff take to address issues with use of VRI in medical clinics at SATF after Plaintiffs' counsel identified the problem and informed CDCR and CCHCS staff in January 2023? Has SATF leadership conducted any audits of VRI operation in the medical clinics at SATF or provided training on how to operate VRI to medical clinic staff? If so, please provide the results of those audits and training records for staff and explain what efforts leadership will undertake to ensure such training is effective.

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<sup>3</sup> For nearly three years, Plaintiffs' counsel has requested that healthcare schedulers be provided access to BIS or that some other reliable process be developed so that they can schedule healthcare appointments for patients who use sign language around staff interpreters' availability. We raised this concern most recently in meetings attended by institution leadership and headquarters staff in June 2022 and January 2023. Our most recent request for information in February 2023 has gone unanswered. *See* SATF AMT Post-Tour Document Requests (Feb. 10, 2023) (requesting "[a]n explanation of how medical encounters for deaf signers are scheduled with staff interpreters, including whether medical schedule[r]s have access to BIS").



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4. What are healthcare staff expected to do if they are unable to provide sign language interpretation for an appointment, including when VRI does not work? Is that information documented anywhere? If there is an LOP or other written document outlining these procedures, please provide a copy.
5. Was failure to provide sign language interpretation during the three encounters listed in this letter reported to SATF management and investigated? If so, please provide the results of any non-compliance inquiries conducted.
6. In the last year, have appointments with other Deaf signing patients been rescheduled or proceeded through use of written notes due to lack of availability of in-person interpreters or VRI? If so, please provide the names and CDCR numbers of those patients, dates of the appointments, and the results of any non-compliance inquiries conducted.

Thank you for looking into these concerns. We look forward to your response.

Sincerely yours,

Sophie Hart  
Staff Attorney

Rita Lomio  
Staff Attorney

Skye Lovett  
Investigator

cc: Ed Swanson, Audrey Barron  
Co-counsel  
Counsel for Defendants in *Plata*  
Counsel for Defendants in *Armstrong*

# **EXHIBIT 22**



## PRISON LAW OFFICE

General Delivery, San Quentin, CA 94964  
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  
Mackenzie Halter  
Sophie Hart  
Marissa Hatton  
Jacob Hutt  
A.D. Lewis  
Rita Lomio

VIA EMAIL ONLY

June 23, 2023

Tamiya Davis  
CDCR Office of Legal Affairs

*Armstrong v. Newsom*

RE: The Current Operation of the Disciplinary Process at SATF Damages Relationships Between People With Disabilities and Staff and Reduces the Willingness of People to Ask for Help

Dear Ms. Davis:

The mechanical use of Rule Violation Reports (“RVRs”) against people with disabilities at the California Substance Abuse Treatment Facility and State Prison, Corcoran (“SATF”), especially for minor infractions or against the victims of battery, has caused distrust in staff and has had a significant chilling effect on the willingness of people to ask for help. Earlier this year, we observed large bruises on the body of a wheelchair user who reported that he had been attacked and stomped on by another incarcerated person. He would not report the attack (or allow us to report the attack) because he believed, based on his experience at SATF, that staff would not keep him safe and might instead issue him an RVR for fighting.

When staff issue an RVR, they become arbiters of punishment more than custodians of staff and resident safety, taking away a person’s ability to enjoy what often is most precious in prison – to talk and visit with their family, to spend time outdoors, and to receive packages from loved ones. Even “minor” RVRs may result in the loss of liberty through credit loss or when used to deny parole. Just one officer who routinely acts in this way can chill a person’s willingness to seek help from any officer.<sup>1</sup> As the Court Expert found with respect to RVRs issued by nursing staff at SATF, “[t]he excessive issuance of RVRs by nursing staff has surely contributed to [an] atmosphere” where people with disabilities “feel[] disrespected” and “has damaged relationships with incarcerated people.”<sup>2</sup>

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<sup>1</sup> *Cf. Armstrong v. Newsom*, 58 F.4th 1283, 1296 (9th Cir. 2023) (“if an inmate sees officers retaliating against inmates who request accommodations for their disabilities, that inmate may think twice before requesting accommodations”).

<sup>2</sup> Court Expert’s Report Regarding Treatment of People with Disabilities at SATF,  
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This is a serious problem. It is critical that people with disabilities be comfortable asking for help.<sup>3</sup> The RVR-first approach often found at SATF impedes building strong, positive relationships and is contrary to the first pillar of the California Model, dynamic security, which is “an approach that promotes positive relationships between staff and incarcerated people through purposeful activities and professional, positive, and respectful communication.”<sup>4</sup> There is ample research “on dynamic security and the effectiveness of a ‘lighter’ staff culture that does not overly rely on the use of coercion and disciplinary action to gain cooperation from incarcerated individuals. Instead, officers can use their rapport with incarcerated individuals and discretion to de-escalate conflicts and resolve problems.”<sup>5</sup> Indeed, if the purpose of issuing RVRs is to change behavior and deter future violations, it does not appear to be working. The incidence of RVRs at SATF is climbing to meet pre-pandemic levels: staff issued over 700 more RVRs between April 2022 and March 2023 than in the previous year, despite housing on average 250 fewer residents each month.

In this letter, we describe two categories of RVRs of particular concern because they erode the relationship between staff and people with disabilities. First, RVRs for relatively minor conduct that could have been addressed by staff working collaboratively with the person, including by accommodating the person’s disability. Second, RVRs issued to people with disabilities who were the victim of an assault.<sup>6</sup>

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*Armstrong v. Newsom*, Dkt. No. 3446 at 50 (Dec. 20, 2022).

<sup>3</sup> See generally *Armstrong v. Newsom*, 484 F. Supp. 3d 808, 828 (N.D. Cal. 2020), *aff’d*, 58 F.4th 1283 (9th Cir. 2023) (holding that staff actions that caused people with disabilities “to refrain from requesting accommodations or filing ADA grievances” violated the ADA).

<sup>4</sup> Memorandum from Jeffrey Macomber, Secretary, and J. Clark Kelso, Receiver, The California Model - Changing Lives One Conversation at a Time (Apr. 4, 2023).

<sup>5</sup> Ashley Kilmer *et al.*, “The Uniform’s in the Way”: Navigating the Tension Between Security and Therapeutic Roles in a Rehabilitation-Focused Prison in Norway, 50 *Crim. Justice & Behavior* 521-540, 530-31 (2023); see, e.g., John Wooldredge & Benjamin Steiner, The Exercise of Power in Prison Organizations and Implications for Legitimacy, 106 *J. of Crim. Law & Criminology* 125-166, 128 (Winter 2016) (“higher levels of officers’ perceived use of coercive power coincided with significantly lower levels of inmates’ perceptions of officer legitimacy (i.e., less likely to agree that officers are fair, equitable, and do a good job)”).

<sup>6</sup> These are not the only categories of concern. We also are concerned about the use of RVRs by mental health care staff and education staff. We have not received responses to previous correspondence on those topics. See Section III (Requests). Although this letter focuses with one

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We ask that CDCR headquarters and SATF work together (1) to evaluate the use of RVRs at SATF and develop guidance for the use of RVRs that aligns with the California Model, and (2) to develop a better system for investigating and responding to assaults of people with disabilities. Those requests, as well as requests regarding specific RVRs, are outlined in more detail in Section III of this letter.

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exception on RVRs issued by custody staff, the guidance should be for all staff. *Cf.* Declaration of Secretary Macomber, *Armstrong v. Newsom*, Dkt. No. 3463-1 at 3 (Feb. 14, 2023) (“Addressing staff attitudes toward inmates with disabilities is an overarching issue that must be addressed with all staff at SATF, be they custody, medical, or administrative.”).

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**I. SATF STAFF PUNISH PEOPLE WITH DISABILITIES FOR MINOR CONDUCT THAT LIKELY COULD HAVE BEEN RESOLVED IN ANOTHER WAY.**

“[P]ersistent over enforcement of rules in a seemingly unfair manner can negatively affect the atmosphere on a unit.”<sup>7</sup> Unsurprisingly, “relatively high use of privilege removal (punishment) seem[s] to be associated with distant and poor staff-prisoner relationships.”<sup>8</sup> As seen in the examples below, use of RVRs in many contexts at SATF demonstrates a missed opportunity to identify ways to accommodate a person’s disability and strengthen relationships between staff and incarcerated people.

**A. SATF Staff Punish Indigent, Elderly People With Serious Mobility Disabilities for Not Walking Long Distances Outside Without a Rain Jacket.**

Between late December 2022 and mid-January 2023, “a series of nine ‘atmospheric rivers’ dumped a record amount of rain and mountain snow across the western U.S. and Canada, hitting California particularly hard.”<sup>9</sup> “The parade of storms caused significant flooding in areas of the Central Valley.”<sup>10</sup> During that time, at least two elderly people at SATF with serious mobility disabilities were issued RVRs, both classified as Serious, for declining to go to appointments that would have required walking a long distance outside in the rain.<sup>11</sup> One uses a wheelchair to ambulate, the other a walker or cane. Both informed housing officers that they did not have a rain

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<sup>7</sup> Rosemary Ricciardelli, Informing Correctional Officer Discretion: A Co-Response Model and the Legal Vulnerabilities Inherent in Prison Work, 102 *Prison Journal* 651-672, 653 (Dec. 2022).

<sup>8</sup> Alison Liebling, Prison Officers, Policing and the Use of Discretion, 4 *Theoretical Criminology* 33-357, 337 (2000).

<sup>9</sup> Nat’l Oceanic & Atmospheric Admin., [Atmospheric Rivers Hit West Coast](#) (Jan. 25, 2023).

<sup>10</sup> *Id.*

<sup>11</sup> See RVR Log No. 7254558 (Dec. 27, 2022) (Serious RVR for “Delaying a Peace Officer in the Performance of Duties” issued to ██████████ ██████████, DPM, CCCMS, G2, for failing to attend appointment with nurse); RVR Log No. 7261355 (Jan. 19, 2023) (Serious RVR for “Failure to Respond to Notices” issued to ██████████ ██████████ DPO, DNH, CCCMCS, D4, for failing to attend GRP class).



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jacket or poncho and for that reason did not want to go to the appointment.<sup>12</sup> Both nonetheless were found guilty, with the charge reduced to a Counseling Only RVR.

Officers here did not “exercise their authority in a fair and respectful way” through demonstration of “genuine concern for the well-being of those incarcerated.”<sup>13</sup> Officers could have, but did not, offer a rain jacket or poncho to the person or get the person a ride in a covered vehicle. Officers could have, but did not, ask if the appointment could be rescheduled or the absence excused given inclement conditions. Instead, officers simply issued RVRs. [REDACTED], [REDACTED], 67 years old, said that the RVR was slipped under his door later. He said that that was emblematic of officers at SATF; they just “write you up, write you up, write you up.”

And it appears no action was taken after supervisory review of the RVRs. SATF did not, for example, develop a system to provide rain jackets or ponchos to indigent people. (Regulations require that the standard issuance of clothing to incarcerated people include “[t]he distinctive, protective and/or extra clothing required by the climate.” 15 Cal. Code Regs. § 3030(b)(1)(F).) When we spoke with Mr. [REDACTED] three months after he got the RVR, he still did not have rain gear: “If you don’t have money, you’re screwed.” He was waiting for some money his brother sent to clear so he could buy a poncho for \$4.95 from the canteen.

At least one of these RVRs already has had a profound impact. Mr. [REDACTED] has a parole hearing next month, on July 12. His Comprehensive Risk Assessment acknowledged that he had received only one RVR over the last three years (the one discussed here), but found it to be a “salient violence risk” consideration, noting that, “despite being non-violent, [it] suggest[s] that he is not above breaking institutional rules if it suits his desires.”<sup>14</sup> [REDACTED], [REDACTED] who

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<sup>12</sup> Mr. [REDACTED] reports that the RVR incorrectly states that he told staff that he would go back to his cell to get a rain jacket, and then refused to come out. He reports that in fact, he told them he did not have a rain jacket and would not go to class without a rain jacket. The class was all the way around the yard, and he would have had to sit in his wet clothes for the duration of the class.

<sup>13</sup> Karin A. Beijersbergen *et al.*, Procedural Justice in Prison: The Importance of Staff Characteristics, 59 *Int’l J. of Offender Therapy & Comparative Criminology* 337-358, 338 (2013); Ashley Kilmer *et al.*, “The Uniform’s in the Way”: Navigating the Tension Between Security and Therapeutic Roles in a Rehabilitation-Focused Prison in Norway, 50 *Crim. Justice & Behavior* 521-540, 522 (2023).

<sup>14</sup> Comprehensive Risk Assessment for Mr. [REDACTED] at 7, 9, 10 (Apr. 17, 2023) (concluding that Mr. [REDACTED] represents a moderate risk for violence).

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is 69 years old and has been incarcerated for over 33 years, also has a parole hearing scheduled soon, on August 25. These RVRs may be used to deny both men parole.<sup>15</sup>

**B. SATF Staff At Times Take a Punish-First Approach When People With Disabilities Attempt to Accommodate Their Disabilities.**

As the Court Expert found, custody leadership at SATF must “lead a shift in the mindset of custody staff to understand that compliance with the ADA is the responsibility of everyone at SATF, and not just a particular person or office.”<sup>16</sup> In our recent tours, we saw instances where officers were confronted with disability-related concerns and, instead of evaluating whether an accommodation should be provided, simply issued an RVR for violation of existing policy. *See* 28 C.F.R. § 35.130(b)(7) (“A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.”); ARP § II.F (“The Department shall provide reasonable accommodations or modifications for known physical or mental disabilities”). We provide several examples below.

██████████ ██████████

██████████ a 66-year-old patient recovering from back surgery, prostate surgery, and radiation treatment for prostate cancer with a serious mobility disability and prescribed at various times incontinence supplies, a urinal, and medical lay-ins due to side effects from cancer treatment, received at least eight RVRs between 2020 and 2022 for attempting to give himself some privacy by using a curtain to cover himself when he urinated into his hand-held urinal. He reported that staff in the large, 252-bed open dorm simply issued him an RVR and did not work with him collaboratively to address his toileting concerns. Indeed, his most recent RVR does not document any attempt to discuss alternate forms of accommodations with Mr. ██████████, including permission to use a privacy curtain when toileting and not at other times (as Mr. ██████████ says he

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<sup>15</sup> The Board considers RVRs for “even minor things like taking food out of the chow hall, . . . window covers, clo[thes] lines” to “demonstrate lingering criminal thinking” and serve as the basis for finding someone unsuitable for parole. *See, e.g.*, Board of Parole Hearings, Parole Suitability Hearing of ██████████ ██████████ Tr. at 97:1-4 (Nov. 5, 2021); *see also In re Reed*, 90 Cal. Rptr. 3d 303, 315 (Cal. App. 2009) (affirming the denial of parole on the ground that petitioner had received a recent 128-A counseling chrono); *Menefield v. Board of Parole Hearings*, 220 Cal. Rptr. 3d 442, 448-49 (Cal. App. 2017) (holding that minor and administrative misconduct may be considered when determining a life prisoner is unsuitable for parole).

<sup>16</sup> *See* Court Expert’s Report Regarding Treatment of People with Disabilities at SATF, *Armstrong v. Newsom*, Dkt. No. 3446 at 59 (Dec. 20, 2022).

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was doing at the time), transfer to celled housing that would afford more privacy, or to refer the matter to the ADA office for assistance, in lieu of an RVR and privilege restriction.<sup>17</sup> The issuance of eight RVRs had not changed his behavior or addressed his concerns, and staff should have considered more effective means to address the problem.

Mr. [REDACTED] is not alone in lacking privacy to accommodate his incontinence in an open dorm setting. Many class members with incontinence may be unable to perform necessary toileting functions with safety and dignity while housed in an open dormitory. We previously reported SATF's failure to accommodate [REDACTED] [REDACTED], who has chronic constipation requiring manual disimpaction of his bowels. Despite a specialist's recommendation that Mr. [REDACTED] be housed in a single cell, he was not provided a celled housing accommodation until Plaintiffs' counsel repeatedly intervened.<sup>18</sup>

[REDACTED] [REDACTED]

[REDACTED] a full-time wheelchair user with prescribed ostomy and urologic supplies, was issued an RVR for having a "clothing/privacy curtain line" in his bed area.<sup>19</sup> The officer wrote in the RVR that she counseled Mr. [REDACTED] "about hanging clothing/privacy lines on the bunk area which blocks the view creating a safety/security issue and he was receptive to counselling." Because the RVR was classified as Counseling Only, Mr. [REDACTED] did not have a chance to explain that he had a pair of boxers drying by his bunk because he had recently had an incontinence accident and laundry would not be picked up for a few days, that the boxers were not obstructing the officers' view into his bunk area, that this was the first time he had been approached by officers about this issue, and that he immediately took his boxers down and complied with the order. The officer did not address Mr. [REDACTED]'s disability needs by getting him fresh laundry or an alternate way of cleaning and drying his soiled clothing.

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<sup>17</sup> See RVR Log No. 7220265 (Sept. 6, 2022) ("Disobeying an Order").

<sup>18</sup> See Emails from Skye Lovett, Prison Law Office, to Tamiya Davis, CDCR Office of Legal Affairs, and Tammy Foss, CCHCS Director of Corrections Services, [REDACTED] [REDACTED] SATF (Oct. 25 and Oct. 27, 2022).

<sup>19</sup> RVR Log No. 7272385 (Feb. 20, 2023) ("Failure to Meet Program/Work Expectations").

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██████████, who is severely low vision (DPV) and hard of hearing, received a Serious RVR for delaying a sergeant because he raised concerns after being told he would be moved from the six-person pod where he had lived for two years.<sup>20</sup> Mr. ██████████ told the sergeant that he needed an accessible bed because it has a higher upper bunk and grab bars, which allows him to navigate his bed area safely due to his disabilities and familiarity with the layout of the wider pod. There is no indication on the face of the RVR that the sergeant followed policy requiring that “the DPV individual’s disability [be taken] into consideration when making bed placements.”<sup>21</sup> It does not appear that the sergeant took the time to understand fully Mr. ██████████’s disability needs and why he required a so-called “DPW bed,” to talk with the housing officers in Mr. ██████████’s unit, to confer with ADA or medical staff, or to consider alternate placements for Mr. ██████████ who told the sergeant that he would be willing to move to a pod or cell with similar accessibility features on another yard or in administrative segregation.<sup>22</sup> Instead, the sergeant charged Mr. ██████████ with delaying him for “approximately one hour” as he looked for alternate housing for another incarcerated person he had intended to move into Mr. ██████████’s bed.<sup>23</sup>

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<sup>20</sup> See RVR Log No. 7228936 (Oct. 5, 2022) (“Refusing to Accept Assigned Housing-Delaying a PO”).

<sup>21</sup> See Memorandum from Connie Gipson, Director of Division of Adult Institutions, Situating Blind and Low-Vision Individuals to New Living Environments During the COVID-19 Pandemic at 2 (Jan. 14, 2021).

<sup>22</sup> Pods designated as wheelchair-accessible on Mr. ██████████’s Facility F, often informally referred to as “ADA pods” or “DPW beds,” contain six bunks, rather than eight, and typically are outfitted with grab bars to allow wheelchair-users to maneuver safely. These features also may be critical to accommodating certain blind and low-vision class members who cannot, due to their disability, safely navigate tight spaces containing up to seven other people and their property, and who may benefit from tactile guides, such as grab bars, to orient themselves to their living area. When we interviewed the regular housing officers in Mr. ██████████’s building in January 2023, they told us that Mr. ██████████ has a serious vision disability but is familiar with the area around his bed so is able to move around independently. They also said that Mr. ██████████ is very helpful with his elderly podmates.

<sup>23</sup> A population census on the date of the encounter suggests that there already was at least one vacant wheelchair-accessible bed in another pod in Mr. ██████████’s building. *Compare* Wheelchair Bed Inventory Report (June 17, 2020), *with* SATF Census on October 5, 2022.

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Mr. [REDACTED] who has a learning disability and is a native Vietnamese speaker with limited English proficiency, reported that he attempted to explain his housing concerns during his RVR hearing, but the hearing official falsely wrote that he declined to make a statement. He again explained in a 602 that he frequently was injured and fell because he could not safely navigate when housed in tighter living quarters, and that he was willing to move so long as he could be housed safely.<sup>24</sup> The denial by the SATF Office of Grievances contained no discussion of Mr. [REDACTED]'s disability-related concerns, and did not address Mr. [REDACTED]'s allegation that he could not explain himself effectively at the hearing due to his learning disability and limited English proficiency, noting only that "it is understandable that you would be found guilty." Mr. [REDACTED] lost 90 days of credit. His initial parole suitability hearing is scheduled for April 2024.

[REDACTED]

Last year, [REDACTED] who is hard of hearing, went to the medication window to get her medication. LVN [REDACTED] said something in response, but Ms. [REDACTED] could not hear her and turned sideways to try to hear better by positioning her ear in direct line with the nurse. LVN [REDACTED] – one of four nurses "responsible for seventy-five percent of all RVRs issued [in 2021] by medical staff at SATF"<sup>25</sup> – later initiated an RVR against Ms. [REDACTED] for "Disobeying an Order."<sup>26</sup> According to LVN [REDACTED] she asked Ms. [REDACTED] to present a picture print out because her identification card was damaged, and Ms. [REDACTED] "ignored my order" and "stood side ways facing the neutral zone." LVN [REDACTED] wrote she "repetitively asked [REDACTED] for the picture printout several times" and Ms. [REDACTED] "continued to ignore my order," at which point LVN [REDACTED] "closed my medication port." The RVR does not describe what, if any, steps LVN [REDACTED] took to ensure effective communication, such as trying a different form of communication like written notes. Instead, LVN [REDACTED] simply punished Ms. [REDACTED] for her inability to hear an order due to her disability and for her attempt to accommodate her disability by positioning her head in such a way to allow her to try to better understand the speaker.

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Several other wheelchair-accessible beds were occupied by individuals with no documented disabilities.

<sup>24</sup> See 602 Log No. 347378 (Jan. 2, 2023).

<sup>25</sup> See Order Regarding Allegations of Mistreatment of Armstrong Class Members at SATF, *Armstrong v. Newsom*, Dkt. No. 3338 at 2-3 (Nov. 8, 2021)

<sup>26</sup> See RVR Log No. 7198078 (June 25, 2023).







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██████████, ██████████

As we discussed with staff on-site, someone helped ██████████, a 75-year-old amputee and wheelchair user with an intellectual disability, submit a 7362 earlier this year that said: “Mr. ██████████ has only one leg and 75 years old. He is fully dependent on his wheelchair. The breaks are worn and the wheelchair needs to be serviced.” He was not seen by nursing staff and, without a working wheelchair, fell twice. On January 11, 2023, another wheelchair user was transferred out of the unit but his wheelchair was left behind in the unit. Mr. ██████████ attempted to take that wheelchair because he thought the person no longer needed or wanted the wheelchair because they had left it behind.<sup>34</sup> Mr. ██████████ immediately gave the wheelchair back when officers approached him about it and acknowledged that he had taken it. He said he was not given a warning and that no one told him he might receive an RVR. He later was issued a Serious RVR.<sup>35</sup> There is no indication in the RVR paperwork that staff considered why Mr. ██████████ took the wheelchair or took steps to confirm that he had a properly functioning wheelchair that he could use. Mr. ██████████ who will go before the parole board next year, was found guilty and lost 60 days of credit and 90 days of dayroom privileges. Mr. ██████████ was upset that this had escalated to an RVR with custody staff because he was “doing really good,” and had not received a disciplinary write-up in the last five years.

\* \* \* \* \*

In each of the above examples, staff issued an RVR apparently without first determining whether the individual’s behavior resulted from their disability and how that disability-related behavior could have been accommodated. For those class members who did have an RVR hearing, the hearing did not serve as an opportunity to identify and address the disability-related need, but instead communicated that managers sanctioned line staff’s decisions to punish, rather than accommodate. It is understandable then that people with disabilities become frustrated in interactions with staff regarding their disability accommodations, as we discuss more in the next section.

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<sup>34</sup> The wheelchair apparently belonged to ██████████, ██████████ DPO, who transferred to ██████████ on January 11.

<sup>35</sup> See RVR Log No. 7261007 (Jan. 11, 2023) (“Theft of State Property, Funds or Another Personal Property Valued Less Than \$400”).

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**C. SATF Staff Punish People With Disabilities for Acting With Frustration After Staff Fail to Accommodate Their Disabilities.**

Over eighteen months ago, we shared our concern that unprofessional behavior by staff at SATF, such as failure to provide disability accommodations, often escalates into more serious altercations. We described an RVR issued to ██████████ ██████████ a then-71-year-old, severely low-vision man who ambulates with a walker. Mr. ██████████ reported that while housed in Building E1 in July 2021, he repeatedly and politely asked the control officer to close his cell door promptly, rather than waiting three to five minutes to do so – due to his vision disability, Mr. ██████████ is unable to see if someone enters his cell and steals his property. The officer, however, refused to do so, and Mr. ██████████ was later issued an RVR after he became so frustrated by his inability to obtain that accommodation that he used profanity.<sup>36</sup> We have not yet received a response to these concerns.<sup>37</sup>

We continue to see staff issue RVRs against people with disabilities after the person became frustrated by staff's inability to accommodate their disability or fairly apply policy. For example, ██████████ ██████████ a 67-year-old wheelchair user, was waiting outside the education building on January 12, 2023, to attend his college class. An officer assigned to education asked him where his mobility vest was and told him to put it on. Mr. ██████████ responded that he would put it on once he got to class. The officer again demanded that Mr. ██████████ put on his vest and told him it was required by policy, at which point the officer claims Mr. ██████████ responded, "God damn, no one else in this institution does this but you, fuck." The officer then told him he would receive an RVR for disrespect toward staff. The officer authored an RVR, classified as Administrative, that same day.<sup>38</sup>

This adversarial interaction was unnecessary. The officer was enforcing a policy that does not exist. At the time of the incident, Mr. ██████████ was designated DPW. People designated DPW do **not** have to wear a mobility vest.<sup>39</sup> Mr. ██████████ appealed the finding of guilt, explaining that

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<sup>36</sup> See RVR Log No. 7101396 (July 1, 2021) ("Disrespect w/out Potential for Violence/Disruption").

<sup>37</sup> See Plaintiffs' Supplemental Written Submission to Court Expert Related to Court Order Regarding Allegations of Mistreatment of *Armstrong* Class Members at SATF at 4 (Jan. 7, 2022).

<sup>38</sup> See RVR Log No. 7261097 (Jan. 12, 2023) ("Disrespect w/out Potential for Violence/Disruption").

<sup>39</sup> See Memorandum by M.D. Stainer, Director, Division of Adult Institutions, and R. Steven Tharratt, Statewide Chief Medical Executive, Mobility Impaired Vests 2 (Feb. 25, 2014) (stating that a person designated DPW "[d]oes not need MI Vest").

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the officer did not properly apply relevant ADA policy and that the final RVR paperwork falsely said that he had pleaded guilty and declined to make a statement at the hearing.<sup>40</sup> Mr. [REDACTED] further explained that “in trying to explain my standing [to the officer in the moment], I got frustrated with his intransigence. I did not attend, and would not say those things to a c/o directly. I was expressing frustration and ire in the way I did as I was at a loss of patience and words.” The appeal was denied without acknowledgement of the officer’s failure to apply the correct policy or the RVR’s failure to document Mr. [REDACTED]’ statement and plea of not guilty. The appeal also was denied without identification of a potential conflict between SATF LOP and statewide policy.<sup>41</sup>

Later that same month, [REDACTED], [REDACTED] then 59 years old and using a walker to ambulate, received an Administrative RVR from the same education officer following an exchange regarding Mr. [REDACTED]’s mobility vest.<sup>42</sup> The officer alleged that Mr. [REDACTED] used profanity, which Mr. [REDACTED] contests; he reports that in fact, the officer became angry and began speaking disrespectfully to him.<sup>43</sup> Otherwise, the RVR narrative and Mr. [REDACTED]’s account agree – Mr. [REDACTED] protested that he had to wait outside for ten minutes when he already was late for his adult education class, on a day that was cold, windy, and raining, and the officer responded by warning Mr. [REDACTED] against being disrespectful and ordering Mr. [REDACTED] to don his mobility vest rather than having it on the side of his walker. Believing that he was permitted to have the vest on

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<sup>40</sup> See 602 Log No. 376394 (Mar. 15, 2023).

<sup>41</sup> The SATF LOP could be read conflict with statewide policy and improperly require people designated DPW to have a vest. See SATF OP 403 at 56 (“At CSATF/SP inmates with mobility impairments, who are not able to prone out during alarms (verified by a physician), shall be issued a yellow mobility impaired identifying vest.”); SATF OP 166 (Inmate Orientation), Attachment A at 31 (“Inmates who have a medical condition(s) that may prevent them from immediately complying with [alarm] procedures must carry on their person a valid medical chrono detailing their condition/limitation. Inmates unable to assume a prone position shall be issued a medical chrono and a mobility impaired vest.”).

<sup>42</sup> See RVR Log No. 7261092 (Jan. 18, 2023) (“Disrespect w/out Potential for Violence/Disruption”).

<sup>43</sup> Although not reflected in the documentation for the RVR, Mr. [REDACTED] reported that he asked to review body-worn camera footage of the incident that might exonerate him, but that the Senior Hearing Officer informed him it was unavailable because the officer’s camera had been deactivated at the time of the incident. Mr. [REDACTED] also reported telling the Senior Hearing Officer that the officer had behaved unprofessionally during the incident. We separately requested the preservation of any remaining body-worn camera footage and asked that Defendants investigate these allegations.

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his walker, Mr. [REDACTED] initially refused, telling the officer that “It’s on! It’s right there on my walker.” Although he complied when the officer reiterated his request, the officer nonetheless concluded that “inmate [REDACTED] does not follow simple instructions when given by custody and or free staff.”

This escalation, again, was unnecessary. Mr. [REDACTED]’s frustration at waiting in the cold and rain and his reasonable misunderstanding of vest policy could have been handled another way, instead of him being threatened with (and then issued) an RVR. The SATF orientation manual states that people unable to assume a prone position due to a mobility disability “shall be issued . . . a mobility impaired vest” – it is not clear regarding the manner in which the vest must be displayed.<sup>44</sup> Rather than simply clarify, however, the officer issued a disciplinary report characterizing Mr. [REDACTED] as “argumentative,” “rude,” and “agitated/angry” – language that can only reinforce an oppositional relationship between residents and staff.

These are not isolated incidents. We routinely see staff issue RVRs reporting that incarcerated people used profanity or otherwise were verbally hostile. The perfunctory use of RVRs in many of these circumstances does not address the core issues and only worsens relationships. [REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

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<sup>44</sup> SATF OP 166 (Inmate Orientation), Attachment A at 31. By contrast, the orientation manual explains that vision and hearing vests must be worn. *Id.*

<sup>45</sup> See RVR Log No. 7156031 (Jan. 28, 2022) (Administrative RVR for “Disrespect w/out Potential for Violence/Disruption” issued to [REDACTED], DPW, then-D2).

[REDACTED]

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[REDACTED]

This type of drive-by discipline appears commonplace in daily life at SATF. And the systematic issuance of these RVRs can exacerbate and entrench negative relationships. [REDACTED] [REDACTED], a 63-year-old, hard-of-hearing man with a mobility disability, for example, has received several RVRs in the last year that describe an explosive relationship between himself and staff. In March, he received an RVR that documented him yelling profanity and slurs at an officer who was releasing incarcerated people for dinner.<sup>47</sup> The RVR paperwork contains no indication that staff attempted to de-escalate or to understand the cause of Mr. [REDACTED]'s behavior – for example, by speaking with Mr. [REDACTED] when he returned to the unit after a cool-down period. Had staff done so, they may have learned what he later explained in a 602 regarding the incident: that he began yelling because he feared the tower officer was going to close him in his cell door, which that same officer had done two weeks prior when he was unable to exit his cell quickly enough due to the additional time he needs to dress. He described screaming to be released and explained how “scary and painful” it was to be “caught in a steel door with my painful hip, knee and back condition.”<sup>48</sup> Staff could have met with Mr. [REDACTED] to develop a different system for cell releases, such as providing more effective communication of announcements or asking that he flag his door when ready to be released. Instead, they merely issued him an RVR – and approach which, thus far, has failed to ameliorate his relationship with staff or address the underlying causes of their conflict.

Rather than discipline class members for their frustration related to disability accommodations, staff in these situations had an opportunity to attempt to de-escalate and to model the professional and respectful communication that forms the foundation of dynamic security. Such techniques are a critical component of “reducing trauma and toxic stress” for both staff and residents, as well as a necessary intervention for individuals whose relationships with staff have fallen into a pattern of adversity, abuse, extreme escalation, and repetitive discipline due to years of lack of accommodation and disrespect.<sup>49</sup>

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<sup>47</sup> RVR Log No. 7280439 (Mar. 14, 2023) (“Disrespect w/out Potential for Violence/Disruption”).

<sup>48</sup> 602 Log No. 376318 (Mar. 14, 2023).

<sup>49</sup> See Memorandum from Jeffrey Macomber, Secretary, and J. Clark Kelso, Receiver, The



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**D. The Policing of Everyday Activities at SATF Discourages People With Disabilities From Interacting With Staff.**

More generally, the ever-present specter of discipline pervades all areas of life at SATF. Routine, day-to-day activities and interactions can escalate quickly to punishment, which discourages many people with disabilities from interacting with staff altogether.<sup>50</sup> This in turn impedes the development of the strong, trusting relationship between staff and incarcerated people that forms the basis of dynamic security. It also is contrary to the principle of normalization, which “aims to bring life in prison as close as possible to life outside of prison.”<sup>51</sup>

For example, a 55-year-old man who cannot read or write and uses a walker received an RVR for taking an extra apple from the dining hall after breakfast, even though when staff confronted him about it, “he was receptive to counselling.”<sup>52</sup> The man said that he and others typically bring fruit back from the dining hall to eat with their lunch in their housing unit. He said that staff told him that he could only have one piece of fruit, which he did not know because that day, he was given two pieces of fruit. That very well may have been the first time he was told of the purported rule.<sup>53</sup>

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California Model - Changing Lives One Conversation at a Time at 1 (Apr. 4, 2023); Court Expert’s Report Regarding Treatment of People with Disabilities at SATF, *Armstrong v. Newsom*, Dkt. No. 3446 at 4-5 (Dec. 20, 2022) (finding at SATF “a system that is failing its disabled population,” where people with disabilities “are living diminished and needlessly difficult lives”).

<sup>50</sup> See Court Expert’s Report Regarding Treatment of People with Disabilities at SATF, *Armstrong v. Newsom*, Dkt. No. 3446 at 4 (Dec. 20, 2022) (“Other times, the class members have just given up and try to get by with inadequate accommodations.”).

<sup>51</sup> See Memorandum from Jeffrey Macomber, Secretary, and J. Clark Kelso, Receiver, The California Model - Changing Lives One Conversation at a Time at 2 (Apr. 4, 2023).

<sup>52</sup> RVR Log No. 7213666 (Aug. 20, 2022) (“Misuse of Food” issued to [REDACTED]).

<sup>53</sup> In response to our request for all policies, procedures, rules, and other documentation provided to incarcerated people regarding rules around dining halls, the institution produced its Inmate Orientation Handbook and DOM Supplement § 54080.6. The Handbook says that sack lunches “will be issued to you during breakfast.” Inmate Orientation Handbook at 5 (rev. Feb. 2022). It does not specify how many pieces of fruit will be part of that lunch. It also says, “No food shall be removed from the dining rooms,” although that presumably does not apply to lunches. *Id.* The DOM Supplement allows people who receive additional “Nourishment Bags,”

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And a 73-year-old, full-time wheelchair user with an unverified learning disability received an Administrative RVR on the same day, from the same officer, also for “extra fruit,” and lost thirty days of recreation/yard.<sup>54</sup> At the hearing, he said: “It was an Apple, when I was on E yard, they never said anything but different over here [on A yard]. It won’t happen again.” He told us that that the rules are different on each yard, no one tells you the rules, and you just get write-up. He said someone should give a copy of the rules to people each time they transfer yards. (In fact, between June 1, 2022, and March 1, 2023, staff at SATF issued 16 RVRs against people with disabilities for “Misuse of Food.” Twelve (75%) were issued on A yard, two on B yard, and two on F yard. None were issued on E yard.)

A DPV class member with a prosthetic eye received an RVR for listening to music on his tablet while sweeping the floor as a porter.<sup>55</sup> And a hard-of-hearing man received an RVR for “disobeying an order” while asleep at 3:00 am because he had hung a sheet by his bed during the pandemic to prevent the transmission of illness, which he described as a common practice in his open dorm of over 200 people.<sup>56</sup> Although the reporting employee stated that the man had been previously informed, the person reported that no information regarding curtains had been communicated to him effectively. His grievance reporting that he was not informed of the rules regarding curtains, and that “SATF doesn’t hand out orientation manu[a]ls and I’m ADA hearing impaired,” was denied with no consideration either of his request for an orientation manual or his allegation of ineffective communication. (As noted above, we have for years heard from people with disabilities at SATF that they were never given an orientation manual. *See* note 53.) The response stated only that “staff did in fact follow progressive discipline by issuing you a rules violation report, in the form of a counseling chrono.”<sup>57</sup>

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which includes a piece of fruit, to take the food back to their cells. *See* SATF DOM Supplement § 54080.6. It is not clear whether these written policies were accessible to Mr. [REDACTED] because he cannot read and, regardless, many people with disabilities at SATF have for years told us they never received an orientation handbook.

<sup>54</sup> *See* RVR Log No. 7213673 (Aug. 20, 2022) (“Misuse of Food” issued to [REDACTED], [REDACTED]).

<sup>55</sup> RVR Log No. 7257300 (Jan. 6, 2023) (“Failure to Meet Work Expectations” issued to [REDACTED] [REDACTED]).

<sup>56</sup> RVR Log No. 7274576 (Feb. 27, 2023) (“Disobeying an Order” issued to [REDACTED], [REDACTED] DNM, DNH, B3).

<sup>57</sup> 602 Log No. 374727 (Mar. 12, 2023); Office of Grievances Decision (May 9, 2023).

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**II. SATF STAFF PUNISH PEOPLE WITH DISABILITIES WHO ARE THE VICTIM OF ASSAULT INSTEAD OF DETERMINING WHETHER MEASURES SHOULD BE TAKEN TO PROTECT THEM.**

A core function of prison staff is to keep people in prison safe. For that reason, it is important that staff be aware of what is happening in the prison and that staff have clear and open lines of communication with incarcerated people. This is particularly important for people with disabilities, who may be more vulnerable to assaults, extortion, and other forms of abuse because of their disabilities.

We recently learned from SATF officers that, if a fight breaks out, the standard practice in responding is to automatically issue RVRs to all involved. Staff we spoke with during a recent tour on A, B, C, D, and E yards confirmed that, if there is a fight, they will press their alarm, stop the fight, and issue all people involved an RVR, with the expectation that the RVR process will sort out culpability. Only a few officers said that, if they knew who the aggressor was, they would issue the RVR only to that person. All said that if they did not know who was at fault because they did not see the fight from the beginning, they would simply issue an RVR to everyone. The ADA Coordinator told us that if an officer sees a fight from its “inception” and knows that one person was “defending themselves against [the] attack of another,” he would not expect the officer to issue the person an RVR because “everyone has the right to defend themselves.” Otherwise, the clear expectation is everyone involved would receive an RVR.

The disciplinary system in practice is not appropriately determining individual culpability and is not designed to identify whether broader measures need to be taken to protect people with disabilities.

**A. Current Practice Punishes Victims and Discourages Them From Seeking Help In the Future.**

In practice, people with disabilities at SATF who are the victims of an assault are punished and discouraged from seeking help from officers in the future. For example, ██████████, a 50-year-old man designated DPV, was issued a Serious RVR for “Fighting.”<sup>58</sup> The reporting employee, a yard officer, wrote that they heard an alarm on the yard, saw Mr. ██████████ and two other people fighting, went to the location and successfully ordered that the people stop. The Senior Hearing Officer (“SHO”) reviewed video footage that established that Mr. ██████████ in fact was the **victim** of the assault: “The video footage depicts two inmates approach subject and begin to batter him while the subject lied on the ground attempting to protect himself.”

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<sup>58</sup> See RVR Log No. 7261484 (Jan. 19, 2023).

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Nonetheless, Mr. ██████ was found guilty of the lesser included charge of “Behavior Which Could Lead to Violence.”<sup>59</sup> It is unclear, after he was exonerated from the fighting charge, why he was found guilty of any charge in this case as the victim of an attack. The SHO listed as evidence to support the guilty finding only the reporting employee’s summary, the video footage, and a 7219 in which “medical staff noted minor injuries.” In fact, adjudication of RVRs for “Fighting” at SATF appear largely perfunctory, with no consideration of whether any force was in self-defense. And yet the charge of “Fighting” refers to “assault” and “battery.”<sup>60</sup> Those crimes require “unlawful” behavior, and the prosecution must establish, beyond a reasonable doubt, that the defendant did not act in self-defense.<sup>61</sup>

Because reporting involvement in an attack results in the automatic issuance of an RVR, people with disabilities are reluctant to ask staff for help when they are assaulted and may refuse to cooperate with any investigation. Consider, for example, what happened to ██████, ██████ a 61-year-old, hard-of-hearing man with a serious mobility disability who uses a walker and is prescribed incontinence supplies. Mr. ██████ was issued and found guilty of a Serious RVR for “Fighting,” although the “Circumstances of the Violation” portion of the RVR does not include any description of involvement by him except for asking an officer for help.<sup>62</sup> The RVR simply states that Mr. ██████ approached an officer at the podium “with scratches on his face and . . . bite marks on his right tricep area,” asking that staff remove an incarcerated person from his cell. When the officer went to the cell, they found that person “very loud and shouting profanity,” with “his fists clinched,” “in a bladed stance,” and “as responding staff arrived he became more agitated and would escalate into kicking his medical walker wanting to fight while

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<sup>59</sup> See 15 Cal. Code Regs. § 3005(a) (“Inmates and parolees shall obey all laws, regulations, and local procedures, and refrain from behavior which might lead to violence or disorder, or otherwise endangers facility, outside community or another person.”).

<sup>60</sup> See 15 Cal. Code Regs. § 3005(d)(1) (“Inmates shall not willfully commit or assist another person in the commission of an assault or battery to any person or persons, nor attempt or threaten the use of force or violence upon another person.”).

<sup>61</sup> See Cal. Pen. Code § 240 (“An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.”); *id.* § 242 (“A battery is any willful and unlawful use of force or violence upon the person of another.”); *People v. Saavedra*, 67 Cal. Rptr. 3d 403, 410 (Cal. App. 2007) (“Typically, the prosecution has the burden to prove a defendant did not act in self-defense, because self-defense negates an element of the offense.”) (citing, *inter alia*, *People v. Adrian*, 185 Cal. Rptr. 506 (Cal. App. 1982) (prosecution must disprove self-defense to prove unlawful use of force for assault)).

<sup>62</sup> See RVR Log No. 7250052 (Dec. 4, 2022).

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staff was in the cell.” The officer wrote that it took 5-10 minutes to calm the other person down. It appears Mr. ██████ would not have received an RVR had he not sought help from officers. And there is no indication the SHO considered whether Mr. ██████ who made a claim of self-defense, responded reasonably to protect himself and to prevent further harm.<sup>63</sup>

The current system at SATF does not keep people safe. Some investigation should be done to determine whether a person acted unlawfully (i.e., not in self-defense) before they are issued an RVR. And at the hearing stage, the SHO should be required to meaningfully consider and document evidence regarding whether the person acted in self-defense.

**B. The RVR Process Fails to Determine Whether Action Should Be Taken to Protect People With Disabilities.**

Not only does SATF’s current practice punish victims and discourage people from requesting help, but these RVRs also fail to identify needed changes in policy that would better protect people with disabilities. Each serious incident is an opportunity to evaluate and determine whether existing policies and procedures are sufficient. When a person with a disability is or could have been seriously harmed, prison officials should meaningfully investigate whether existing policies should be revised to provide better protections in the future.

RVRs are not designed to collect this information. The RVR process is focused on whether a particular incarcerated person is guilty of some offense; it does not examine the root cause of the altercation and whether any non-disciplinary action needs to be taken to protect people with disabilities. In fact, the “Disposition” section of the RVR contains only individual sanctions, and no place to identify the need for other action to mitigate future harm.<sup>64</sup>

At his hearing, for example, Mr. ██████ said that the other person assaulted him and that, as a result, Mr. ██████ subdued him. Based on that statement, the 7219, and the RVR reports, he was found guilty. There is no indication that the SHO investigated what led to the altercation or why officers did not respond immediately. The RVR says, “It should be noted at approximately 1850 hours, Subject was asked if he had Enemy or Safety Concerns to which he stated yes. . .

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<sup>63</sup> A Supplemental RVR Report the next day says that Mr. ██████’s 7219 documented “abrasions, active bleeding, bruise, dried blood and skin flap,” and that the sergeant observed a bite mark on his arm. Mr. ██████ reported that he did not receive a copy of the RVR, including the narrative summary, before his hearing, and was not given the option of calling witnesses on his behalf.

<sup>64</sup> See DOM § 52080.4.3 (Administrative Violation Dispositions); *id.* § 52080.5.5 (Disposition Options); *id.* § 52080.5.6 (Disposition of Serious Disciplinary Charges).



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However I was unable to select option 3 under ENEMY CONCERNS.” There is no information about what those concerns were or whether they were eventually properly recorded.

Similarly, ██████████, ██████████ a wheelchair user with incontinence and an R-suffix, who had raised concerns about his safe housing, was issued and found guilty of a Serious RVR for “Fighting.”<sup>65</sup> There is no indication in the perfunctory RVR paperwork that the SHO considered what caused the fight, whether Mr. ██████████ acted in self-defense, or whether any other action needed to be taken. Mr. ██████████ subsequently raised concerns about his safe housing due to his disability and R-suffix, including by reporting that he had been robbed and assaulted by people in his unit. It was only after intervention by Plaintiffs’ counsel that he apparently was given a single-cell accommodation.

In addition, ██████████ ██████████ a 52-year-old, full-time wheelchair user was assaulted last year and sustained serious injuries. The alleged assailant was issued an RVR for “Battery on a Prisoner,” for which he was found guilty, but no other action was taken, even though interviews of incarcerated people after the fight revealed serious tensions between non-disabled people and people with disabilities in the unit related to phone access.<sup>66</sup> It was only after Plaintiffs’ counsel brought the matter to Defendants’ attention five months after the altercation that Defendants acknowledged “[i]t is reasonable to believe an organized sign-up sheet could have prevented the conflict between the inmates in this case and as a result SATF is taking immediate action to ensure each facility operates in compliance with our procedures, and maintains the use of a sign-up sheet.”<sup>67</sup> That non-disciplinary measure to mitigate risk to people with disabilities should have been identified and implemented by the institution promptly following the event – without the need for intervention by Plaintiffs’ counsel.

SATF staff told us that, other than in RVRs, the only other place that an assault of a person with a disability might be documented is on an incident report. But the ADA Coordinator told us that incident reports are reserved for “serious fights” that involved serious injuries, use of

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<sup>65</sup> See RVR Log No. 7188918 (May 26, 2022).

<sup>66</sup> See Memorandum from ██████████, Correctional Sergeant, to ██████████ Facility Captain, Confidential Interview Regarding Safety Concerns of Inmate ██████████ ██████████ (Aug. 14, 2022).

<sup>67</sup> See Letter from Amber Norris & Rita Lomio, Plaintiffs’ Counsel, to Tamiya Davis, CDCR Office of Legal Affairs, Failure to Evaluate SATF DPP Following Assault of Wheelchair User (Dec. 2, 2022); Letter from Patricia Ferguson, CDCR Office of Legal Affairs, to Amber Norris & Rita Lomio, Plaintiffs’ Counsel, Alleged Failure to Evaluate SATF DPP Policies Following Assault of Wheelchair User (June 13, 2023).



Tamiya Davis  
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weapons, and/or force by staff.<sup>68</sup> To our knowledge, none of the assaults of people with disabilities discussed in this section resulted in an incident report.<sup>69</sup>

Even if incident reports were used more widely when people with disabilities are assaulted, it is not clear they would provide a meaningful review of possible preventive measures. Although the Department Operations Manual requires incident reports to “[d]escribe measures taken to prevent recurrence” in addition to documenting whether disciplinary action was taken, *see* DOM § 51030.6, we do not see that done in practice at SATF. In fact, between January 1 and March 10, 2023, none of the incident reports for fights that involve someone with a DPP code describe any such measures taken.<sup>70</sup> And in one Incident Report involving a wheelchair user who “was the victim of attempted murder” and found “bleeding profusely from multiple stab wounds and slashing wounds,” there is no “Action Taken” section at all.<sup>71</sup> In fact, the author concluded, without explanation, that “[t]his is considered to be an isolated incident.” The Incident Report did not identify that the wheelchair user had for weeks before the assault attempted to alert staff to his concerns about his ability to be safely housed in the large dorm setting because of his disabilities, did not evaluate those concerns, and did not identify whether measures should be taken to prevent recurrence of the brutal assault.<sup>72</sup>

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<sup>68</sup> *See* DOM § 51030.3 (Reportable Incidents).

<sup>69</sup> Defendants have told us that there was no incident report for the assaults of Mr. [REDACTED] and Mr. [REDACTED]. We have received no response related to our request for Mr. [REDACTED].

<sup>70</sup> *See* Incident Report 50587 (Jan. 3, 2023); Incident Report 51506 (Jan. 20, 2023); Incident Report 51682 (Jan. 24, 2023).

<sup>71</sup> *See* Incident Report 23666 (June 15, 2021).

<sup>72</sup> *See* Letter from Tania Amarillas, Prison Law Office, to Tamiya Davis, CDCR Office of Legal Affairs, [REDACTED], SATF (July 29, 2021).

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### III. REQUESTS

1. CDCR headquarters and SATF should work together to address the destructive and counterproductive use of RVRs at SATF and develop guidance to staff and incarcerated people related to RVRs that aligns with the California Model's dynamic security and normalization principles. The guidance should include the requirement that staff document in the RVR efforts to resolve any disability-related concerns in collaboration with the person with a disability and why those were ineffective and staff believed an RVR was necessary. The guidance should include a requirement that headquarters staff, in collaboration with the SATF ADA Coordinator, review each RVR issued to a person with a disability for at least six months to monitor compliance with, and the efficacy of, the guidance. Please produce a copy of that guidance for review and comment by Plaintiffs and the Court Expert before it is finalized.

2. CDCR headquarters and SATF should develop a system for tracking the number and type of RVRs issued by a particular staff person. The fact that a particular staff person is initiating a large number of RVRs, for example, is an indication that they may be having difficulty managing the population and may require additional support to implement the principles underlying the California Model.<sup>73</sup>

3. CDCR headquarters and SATF should work together to develop a system of responding to assaults of people with disabilities. That system should involve, at a minimum:

- a. A requirement that the victim of an assault or battery who acts only in self-defense should not be punished.
- b. A requirement that some investigation be conducted into whether a person acted unlawfully before they are issued an RVR for fighting or similar behavior, including review of any available camera footage.
- c. A requirement that, at the hearing stage, the SHO meaningfully consider and document evidence regarding whether the person acted in self-defense.
- d. A requirement that, when a person with a disability is or could have been seriously harmed, prison officials conduct a root-cause analysis that squarely

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<sup>73</sup> Cf. Order Regarding Allegations of Mistreatment of Armstrong Class Members at SATF, *Armstrong v. Newsom*, Dkt. No. 3338 at 2-3 (Nov. 8, 2021) (ordering Court Expert to investigate "why four nurses are responsible for seventy-five percent of all RVRs issued this year by medical staff at SATF").

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considers whether existing policies and procedures should be revised to provide better protections in the future.

- e. A system for documenting whether someone with a disability has been the victim of an assault or battery, beyond the issuance of an RVR.

4. SATF should immediately void all RVRs discussed in this letter in the interest of justice.<sup>74</sup> The RVRs are listed below for your convenience.<sup>75</sup> We also indicate in the table where we request additional corrective action in response to the RVR. Please provide an update on each RVR, whether it was voided (and if not, why not), and whether the additional action requested was taken (and if not, why not).

	Class Member	CDCR No.	RVR Log No.	Additional Requests
1	██████████	██████████	7261097	<ul style="list-style-type: none"> <li>a. Please review whether the vest policy outlined in SATF OP 403 is consistent with statewide policy stating that people who are designated DPW do not need a vest.</li> <li>b. Please train Officer ██████████ and other staff on the proper mobility vest policy.</li> <li>c. Please review the problems with the response to 602 Log No. 376394 with the SATF OOG and CDW R. Morales, including failure to identify staff's improper application</li> </ul>

<sup>74</sup> We ask that SATF void RVRs even for those individuals who are no longer in custody, as an individual's disciplinary history may impact classification calculations during a future term of incarceration. *See, e.g.*, 15 Cal. Code Regs. § 3375.3(b) (CDCR Classification Score Sheet, Prior Incarceration Behavior) (describing consideration of serious RVRs during the last twelve months of a prior term in an individual's initial classification).

<sup>75</sup> We do not include the RVR issued to ██████████, ██████████ as we have, by separate letter, asked for it to be re-issued or voided.

Tamiya Davis  
 Re: Operation of the Disciplinary Process at SATF  
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				of policy, failure to identify that SATF LOP conflicts with statewide policy related to vests, and failure to address Mr. ██████'s statement that the final RVR paperwork incorrectly stated he pleaded guilty and declined to make a statement at his hearing.
2	██████████	██████████	7261092	Please clarify the vest policy for people with mobility disabilities who have codes other than DPW in the SATF orientation manual and ensure that it is effectively communicated to people with disabilities.
3	██████████	██████████	7261355	<p>a. Please develop a policy for the issuance of rain jackets and ponchos during inclement weather, including those designed for people who use wheelchairs.</p> <p>b. Please review whether any other RVRs were issued to people for failing to attend appointments during inclement weather when they did not have, and were not offered, weather-appropriate attire, and void all such RVRs.</p>
4	██████████	██████████	7254558	(Same as for Mr. ██████ above)
5	██████████	██████████	7220265	Please explain what accommodations are available to allow privacy in toileting for people who require bed-side urinals and are housed in open dormitories.
6	██████████	██████████	7272385	—

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7	██████████	██████████	7228936	Please review the problems with the response to 602 Log No. 347378 with the SATF OOG, including the failure to address Mr. ██████████'s disability-related concerns and the claim that the SHO falsely wrote that Mr. ██████████ declined to make a statement at the RVR hearing.
8	██████████	██████████	7198078	Please produce, review, and re-consider all RVRs issued by LVN ██████████ to people with disabilities at SATF, and explain what action, if any, was taken upon re-review of each RVR.
9	██████████	██████████	7257300	—
10	██████████	██████████	7213666	—
11	██████████	██████████	7261484	Please explain what, if anything, a person with a disability is allowed to do to protect themselves from serious harm if they are being attacked and where this is documented in policy.
12	██████████	██████████	7250052	(Same as for Mr. ██████████, above)
13	██████████	██████████	7188918	—
14	██████████	██████████	7230835	—
15	██████████	██████████	7194686	—
16	██████████	██████████	7274576	Please review the problems with the response to 602 Log No. 374727 with the SATF OOG, including the failure to address Mr. ██████████'s allegations of failure to provide effective communication and failure to provide an orientation manual.
17	██████████	██████████	7156031	—

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18	██████████	██████████	7280439	—
19	██████████	██████████	7213673	—

5. We previously reported our concerns with the issuance of RVRs to people with disabilities at SATF in our written submissions related to the Court Expert's SATF investigation, which we sent in lieu of tour reports, and prior advocacy letters.<sup>76</sup> We have not yet received a response from Defendants over a year and a half later. Please explain what, if any, action Defendants have taken regarding these concerns after they were brought to Defendants' attention, including related to the specific RVRs discussed. The RVRs discussed in the submissions are listed in the Appendix to this letter for your convenience. If no action was taken, please explain why.

We appreciate your prompt attention to this important matter.

Sincerely yours,



Rita Lomio  
 Staff Attorney



Skye Lovett  
 Investigator

cc: Ed Swanson, Audrey Barron  
 Co-counsel  
 Patricia Ferguson, Alexander Powell, Nicholas Meyer, Chor Thao, Ramon Ruiz, Amber Lopez, OLA Armstrong (OLA)  
 Lois Welch, Steven Faris (OACC)  
 Bruce Beland, Robert Gaultney, Sandra Alvarez (CCHCS Legal)  
 Mona Houston, Lourdes White, Jillian Hernandez, Cory Lo, CAMU Mailbox (DAI)

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<sup>76</sup> See, e.g., Plaintiffs' Written Submission to Court Expert Related to Court Order Regarding Allegations of Mistreatment of *Armstrong* Class Members at SATF (Dec. 8, 2021); Plaintiffs' Supplemental Written Submission to Court Expert Related to Court Order Regarding Allegations of Mistreatment of *Armstrong* Class Members at SATF (Jan. 7, 2022); Letter from Tania Amarillas *et al.*, Prison Law Office, to Ed Swanson, Court Expert, RVRs Initiated by Mental Health Staff at SATF (Feb. 28, 2022).



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Diana Toche, Joseph Bick, John Dovey, Robin Hart, CCHCS Accountability, Joseph (Jason) Williams, Cathy Jefferson, Jason Anderson, Dawn Lorey, Jane Moses, Alexandria Tonis, Joshua (Jay) Leon Guerrero, Aaron Perez (CCHCS)  
Sharon Garske, Trace Maiorino, Sean Lodholz, Mark Jackson, Olena Likhachova (OAG)

# APPENDIX

## APPENDIX

	Class Member	CDCR No.	RVR Log Nos.
Plaintiffs' Initial Written Submission (Dec. 8, 2021)			
1	██████████ <sup>1</sup>	██████	7037319 7051143
2	██████████ <sup>2</sup>	██████	5562853
3	██████████ <sup>3</sup>	██████	7046456 7056536
4	██████████ <sup>4</sup>	██████	6939489 6945636 6975379
5	██████████	██████	7059957 7087747
6	██████████████████	██████	7077205
7	██████████	██████	7110955
8	██████████	██████	7056104
9	██████████	██████	7069317

<sup>1</sup> We also raised concerns by letter dated November 4, 2021. *See* Letter from Tania Amarillas, Laura Bixby, and Sophie Hart, Plaintiffs' Counsel, to CCHCS/CDCR, ██████████ SATF (Nov. 24, 2021). We have not yet received a response.

<sup>2</sup> We also raised concerns by letter dated July 6, 2021. *See* Letter from Tania Amarillas and Rita Lomio, Plaintiffs' Counsel, to Tamiya Davis, CDCR Office of Legal Affairs, DPP Access for Class Members at SATF with Limited English Proficiency at 3-4 (July 6, 2021). We have not yet received a response.

<sup>3</sup> We also raised concerns by letter dated September 3, 2021. *See* Letter from Skye Lovett and Patrick Booth, Plaintiffs' Counsel, to Tamiya Davis, CDCR Office of Legal Affairs, ██████████ ██████████ DNH, DPM, LD, SATF (Sept. 3, 2021). We have not yet received a response.

<sup>4</sup> We also raised concerns by letter dated May 31, 2021. *See* Letter from Skye Lovett and Rita Lomio, Plaintiffs' Counsel, to Tamiya Davis, CDCR Office of Legal Affairs, ██████████ ██████████, DLT, DPV, SATF (May 31, 2021). We have not yet received a response.

Appendix  
Operation of the Disciplinary Process at SATF  
A-2

10	██████████	██████████	7113420
11	██████████	██████████	7094002
12	██████████	██████████	7083036 7093929
13	██████████	██████████	7063004
14	██████████	██████████	7079422
15	██████████	██████████	7075799
16	██████████	██████████	7075800
17	██████████	██████████	7075798
18	██████████	██████████	7088615
19	██████████	██████████	7091861
20	██████████	██████████	7109095
21	██████████	██████████	7075117
22	██████████	██████████	7075118
23	██████████	██████████	7075116
24	██████████	██████████	7058981
25	██████████	██████████	7064654
26	██████████	██████████	7089337
27	██████████	██████████	7088238
28	██████████	██████████	7061050
29	██████████	██████████	7082101
30	██████████	██████████	7078247
31	██████████	██████████	7056954 7057673

Appendix  
Operation of the Disciplinary Process at SATF  
A-3

32	██████████	██████	7064301
33	██████████ <sup>5</sup>	██████	7099922*
Plaintiffs' Supplemental Written Submission (Jan. 7, 2022)			
34	██████████	██████	7036061 7037001
35	██████████	██████	7096308 7107294*
36	██████████	██████	7057772
37	██████████	██████	7087512 7129838
38	██████████	██████	7115064
39	██████████	██████	7086872 7088000
40	██████████	██████	7128381
41	██████████	██████	7055669 7065957 7076952 7086605
42	██████████	██████	7067417* 7069494 7072305

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\* Those RVRs marked with an asterisk (\*) were not identified by log number in Plaintiffs' submissions to the Court Expert. We include the log numbers here for convenience.

<sup>5</sup> Identified in Plaintiffs' review of the quarterly production of staff misconduct investigation files, this RVR allegedly was issued to Mr. ██████ when he actually was the victim of the assault. The RVR was not based on staff's observation of the incident, but on confidential information. The incident report, however, documented extensive injuries to Mr. ██████ including "Abrasion/Scratch, Swollen area, to the left side of mouth, cheek, and below the eye" and "[b]ite mark to left bicep."

Appendix  
Operation of the Disciplinary Process at SATF  
A-4

43	██████████ <sup>6</sup>	██████	7096769
44	██████████	██████	7070121 7076580 7088686
45	██████████	██████	7140195
46	██████████	██████	7122423
47	██████████	██████	7100531 7122867
48	██████████	██████	7134536 7136412
49	██████████	██████	7062305 7062329
RVRs Initiated by Mental Health Staff at SATF (Feb. 28, 2022)			
50	██████████	██████	7072282
51	██████████	██████	7105183
52	██████████	██████	7059607
53	██████████	██████	7087858
54	██████████	██████	7060215
55	██████████	██████	7074364
56	██████████	██████	7055805* 7055806*
57	██████████	██████	7059946

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<sup>6</sup> We reported concerns with other RVRs issued to Mr. ██████████ by education and Division of Rehabilitative Programs (“DRP”) staff as well. *See* Plaintiffs’ Supplemental Written Submission to Court Expert Related to Court Order Regarding Allegations of Mistreatment of *Armstrong* Class Members at SATF at 20-21 (Jan. 7, 2022).



Appendix  
Operation of the Disciplinary Process at SATF  
A-5

58	[REDACTED]	[REDACTED]	7100854
59	[REDACTED]	[REDACTED]	7099025*
60	[REDACTED]	[REDACTED]	7097848*
61	[REDACTED]	[REDACTED]	7076194*

# **EXHIBIT 23**



**PRISON LAW OFFICE**  
General Delivery, San Quentin, CA 94964  
Telephone (510) 280-2621 • Fax (510) 280-2704  
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*Director:*  
Donald Specter

*Deputy Director:*  
Sara Norman

*Legal Director:*  
Margot Mendelson

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

VIA EMAIL ONLY

September 8, 2023

Ms. Tamiya Davis  
CDCR Office of Legal Affairs

RE: *Armstrong* Advocacy Letter  
[REDACTED] [REDACTED] SATF

Dear Ms. Davis:

We write on behalf of [REDACTED] [REDACTED], DPV, DNH, who is currently housed at SATF. For over two years, Mr. [REDACTED] has been requesting a high-volume talking books player and headphones to accommodate his vision and hearing disabilities. These devices are provided free-of-charge by the National Library Service for the Blind, but staff at SATF have failed to assist Mr. [REDACTED] in completing an application for these devices. **We ask that SATF staff help Mr. [REDACTED] complete the high-volume talking books player and headphones application and submit it to the Fresno Talking Book Library immediately.**

We first raised concerns with Mr. [REDACTED]' request for a high-volume talking books player and headphones in November 2021. *See* April/May 2021 SATF Armstrong Monitoring Tour Blind and Low Vision Class Member Concerns at SATF (Nov. 16, 2021) at 8. In that report, we outlined the months long delay Mr. [REDACTED] had experienced after making his request known to medical staff at SATF. Mr. [REDACTED] reported that P&S [REDACTED] refused to sign the high-volume player application and instead referred him to the audiologist to see if he qualified for the high-volume player and headphones. *See* Outpatient Progress Note (Feb. 26, 2021). Mr. [REDACTED] saw an audiology tech on March 24, 2021. However, the tech declined to sign the application noting that they could not sign because "I'm not a doctor or audiologist." *See* Audiology Consult (Mar. 24, 2021).

After our report, Mr. [REDACTED] was referred to audiology again. *See* Outpatient Progress Note (Dec. 31, 2021). However, the request was denied, and it was recommended that Mr. [REDACTED] see an ENT. *See* Outpatient Progress Note (Mar. 1, 2022). It is not clear from the medical records why an ENT consultation was recommended in order for medical staff to sign the application. According to the application, "All patrons applying for the high-volume player and headphones must be certified as hearing impaired by a physician or audiologist...a specific medical examination by a physician for use of the high-volume player and headphones is in the individual's best health interest, but it is not required." *See* Attachment A at 2. Mr. [REDACTED] continued to ask medical staff for help getting his high-volume player application done. On December 5, 2022, Mr. [REDACTED] was referred to an ENT to discuss his high-volume

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Ms. Tamiya Davis

Re: [REDACTED], [REDACTED]

September 8, 2023

Page 2

player and headphones request. *See* Request for Services (Dec. 5, 2022). And on December 28, 2022, Mr. [REDACTED] was again referred to audiology for the same thing. *See* Request for Services (Dec. 28, 2022). This request was later cancelled. In February 2023, Mr. [REDACTED] saw an ENT, who recommended a “comprehensive hearing test.” *See* ENT Consultation (Feb. 14, 2023). However, it is not clear from the ENT notes if the high-volume player application was discussed at this encounter.

After not getting anywhere with staff regarding his high-volume player application and finding himself in need of amplified headphones for his talking books player and other electronic devices, Mr. [REDACTED] submitted an 1824 in August 2022 requesting to purchase Hearmore TV Wireless Rechargeable Headphones through MaxiAids. *See* 1824 Log No. SATF-A-22-01450. His request was denied. In their response, the RAP cited a November 2020 denial as the basis for their denial two years later. In 2020, the headphones purchase was denied because they were not clear in color. Mr. [REDACTED] then appealed the RAP decision in a 602 in October 2022. *See* 602 Log No. 316790. His 602 was incorrectly routed to the 602-HC process, and the OOA decided in January 2023 to re-route his 602 through the custody 602 process. The re-routed 602 was denied in February 2023 because the Hearmore headphones were over the \$50 price limit and not clear in color. *See* 602 Log No. 355300. The 1824 and 602 responses did not offer Mr. [REDACTED] any alternative accommodation.

**In light of this information, we ask that SATF staff help Mr. [REDACTED] complete the high-volume talking books player and headphones application and submit it to the Fresno Talking Book Library immediately. We further ask that the institution work with Mr. [REDACTED] to find a similar high-volume headphone accommodation for his other electronic devices, including his tablet. These accommodations should be provided to Mr. [REDACTED] at no cost.**

Thank you for your prompt attention to this matter.

Sincerely,



Tania Amarillas

Investigator under Rita Lomio

cc: Mr. Hodges  
Ed Swanson  
Co-counsel  
Patricia Ferguson, Alexander Powell, Nicholas (Nick) Meyer, Chor Thao, Ramon Ruiz, Amber Lopez, OLA Armstrong (OLA)  
Lois Welch, Steven Faris (OACC)  
Brienne Burkart, Sandra Alvarez (CCHCS Legal)  
Mona Houston, Lourdes White, Jillian Hernandez, Cory Lo, CAMU Mailbox (DAI)  
Diana Toche, Joseph Bick, John Dovey, Robin Hart, CCHCS Accountability, Joseph (Jason) Williams, Cathy Jefferson, Jason Anderson, Dawn Lorey, Jane Moses, Joshua (Jay) Leon Guerrero, Aaron Perez (CCHCS)  
Sharon Garske, Trace Maiorino, Sean Lodholz, Mark Jackson, Olena Likhachova (OAG)

# Attachment A



Washington, DC 20542

(202) 707-5100

[www.loc.gov/nls](http://www.loc.gov/nls)

# Application and Certification for High-Volume Player and Headphones

## Instructions

The high-volume player and headphones are designed for use only by patrons of the National Library Service for the Blind and Physically Handicapped (NLS) who are hearing impaired. This high-volume player and headphone combination will produce a sound level of up to 120 dB in adults. If you require greater amplification to hear the recordings, this high-volume player and headphone combination is not suitable for you.

To submit your application: (1) complete Part I, applicant information; (2) have a physician or audiologist complete Parts II and III to certify your hearing impairment and review warnings related to use of the high-volume player and headphones; (3) have your cooperating network library complete Part V, return a copy of the completed form to the NLS equipment control officer via fax or email, and retain the original completed application on file.

***Please read the following warnings carefully and, if necessary, have them thoroughly explained to you.***

**Warning: This amplifier/headphone combination can cause permanent damage to your hearing if not used in accordance with these instructions.**

1. The high-volume player and headphones should be used at the lowest volume at which you can hear the sound of the talking book. Discontinue use of the high-volume player and headphones if, during or after use:
  - your ears are ringing
  - sounds are muffled, as if you are in a barrel
  - sounds are distorted, as if coming through a poor-quality speaker
  - you find yourself shouting to communicate with other people
  - your ears feel dull and full

These are some of the symptoms of hearing damage. If any of these symptoms occur during or after use of the amplifier/headphones, immediately stop use and contact your physician or hearing specialist.



2. Do not use any other headphones with this player; other headphones may produce excess sound that can further damage your hearing.

### **Special warning for patrons under eighteen (18) years old**

The high-volume player and headphones will produce a sound level up to 120 dB. However, the effective amplitude of the device is affected by the size of the ear canal. In users under age eighteen (18), the device may produce amplitude above 120 dB that may result in permanent damage to hearing. Users under the age of eighteen must have a physician review the application and certify the equipment is suitable for the individual to use.

### **Special warning for caregivers of adult patrons**

Setting the volume too high may result in permanent damage to hearing. Each time the high-volume player and headphones are used, set the player at the lowest volume and increase the volume gradually until the user can hear. After a reading session, periodically check to ensure the user is not experiencing any of the symptoms of hearing loss as listed above.

### **Medical examination and certification**

All patrons applying for the high-volume player and headphones must be certified as hearing impaired by a physician or audiologist. Because continuing physical development can change the extent of hearing loss, users under age eighteen must have a medical examination and be certified to receive the equipment by a physician or audiologist (see above).

For older hearing-impaired individuals, routine use of the high-volume player and headphones is less likely to cause further loss of hearing. Also, the individual's loss of hearing may be accompanied by other conditions for which the individual receives attention. Therefore, a specific medical examination by a physician for use of the high-volume player and headphones is in the individual's best health interest, but it is not required. The user may receive the device with certification of hearing loss by a physician or licensed audiologist and the user's waiver of a medical evaluation.

**Application and Certification for High-Volume Player and Headphones**

**Please print or type**

**Part I: Applicant Information**

Name (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (Initial) \_\_\_\_\_

Street address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

**Part II: Certification of Hearing Impairment by physician or audiologist (required)**

Name (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (Initial) \_\_\_\_\_

Street address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Part III: Physician or audiologist approval of use**

I, \_\_\_\_\_, certify that I have conducted a medical evaluation, reviewed the application and warnings with patient \_\_\_\_\_

and certify this patient may benefit from the high-volume player and headphones provided by the National Library Service for the Blind and Physically Handicapped (NLS) for use in hearing recorded materials provided by NLS. I have advised the patient of the written warnings supplied within this application.

**Physician/Audiologist:**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Hospital/Practice \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

**Part IV: Waiver of physician or audiologist approval of use (must be 18 or older and accompanied by certification of hearing impairment):**

**I have not** obtained a medical evaluation to determine if the high-volume player and headphones are suitable for use. (User's waiver of medical evaluation below must be completed.)

**User's Waiver of Physician or Audiologist Approval of Use:** I certify that I am eighteen (18) years of age or older and hereby waive a medical evaluation to certify use of the high-volume player and headphones provided by the National Library Service for the Blind and Physically Handicapped (NLS), despite being warned that the exercise of this waiver is not in my best health interest and the use of a high volume player and headphones without certification from a physician or audiologist is strongly discouraged.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_

**Part V: Network Librarian**

Your completion of this form verifies the applicant is a participant in the talking-book program administered by your library for NLS.


Name (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (Initial) \_\_\_\_\_

Network library \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

# **EXHIBIT 24**

 <p style="text-align: center;">Massachusetts Department of Correction <b>POLICY</b></p>	Effective Date	Responsible Division  Deputy Commissioner, Clinical Services and Reentry
	5/12/2023	
	Annual Review Date	
	5/12/2023	
Policy Name	M.G.L. Reference: M.G.L. c. 19C; M.G.L. c. 22, §13A; M.G.L. c. 124, §§1 (c) and (q); 42 U.S.C. §12101 <u>et seq.</u> ; 28 C.F.R. §§ 35.130(h), 35.139(a)-(b), 35.150(a)(3)	
103 DOC 408 <b>REASONABLE ACCOMODATIONS FOR                  INMATES</b>	DOC Policy Reference: 103 DOC 473; 103 CMR 491; 103 DOC 630	
	ACA/PREA Standards: 2-CI-51-1; 4-ACRS-5A-19; 4-ACRS-6A-01-1; 4-ACRS-6A-04; 4-ACRS-6A-04-2; 5-ACI-2C-11; 5-ACI-2C-12; 5-ACI-2C-13; 5-ACI-5B-11; 5-ACI-5E-02; 5-ACI-5E-03; 5-ACI-5E-04; 5-ACI-7D-11; 5-ACI-7D-13; PREA: 115.16	
Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Inmate Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Applicability: Staff and Inmates
Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Location: Department Central policy file; Each Superintendent's policy files; In order to provide Effective Communication, policies may be available in other formats upon request and verification of the need for a Reasonable Accommodation.
<p><b>PURPOSE:</b>                  103 DOC 408 is intended to address Department of Correction (Department) inmate requests and/or needs for a Reasonable Accommodation which may fall under the Americans with Disabilities Act (ADA) or other provisions of local, state and federal law.</p> <p><b>RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY:</b>                  Deputy Commissioner, Clinical Services &amp; Reentry                  Assistant Deputy Commissioner, Clinical Services                  Department ADA Coordinator for Inmates                  Director of Resource Management                  Superintendents                  Institution ADA Coordinators</p> <p><b>CANCELLATION:</b>                  103 DOC 408 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules, or regulations which are inconsistent with this policy.</p> <p><b>SEVERABILITY CLAUSE:</b>                  If any part of 103 DOC 408 is, for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.</p>		

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**408.01**

**DEPARTMENT POLICY**

It is the Department's policy not to discriminate against any person protected by the ADA. The Department shall ensure that its programs, activities, and services, when viewed in their entirety, are readily accessible to, and usable by, Inmates with a Disability.

The Department shall provide inmates access to trained, qualified individual(s) who are educated in the problems and challenges faced by inmates with physical and/or mental impairments. These individuals shall be knowledgeable in programs designed to educate and assist Inmates with a Disability, as well as in all the legal requirements for the protection of Inmates with Disabilities.

The Department shall make its programs, services, and activities, accessible to all Inmates with a Disability. Consistent with 28 C.F.R. §§ 35.130(h), 35.139(a)-(b), 35.150(a)(3), the Department need not provide accommodations in the following circumstances:

- a. If the accommodation will result in a fundamental alteration in the nature of a program, activity, or service, or in undue financial or administrative burdens. The decision that an accommodation would result in a fundamental alteration or in undue financial or administrative burden must be made by the Commissioner or designee, after considering all resources currently available for use in the funding and operation of Department programs and services, and must be accompanied by a written statement of reasons documenting that conclusion, in accordance with 28 C.F.R. §§ 35.150(a)(3) and 35.164;
- b. If the accommodation will result in actual risks or impairment of the safe operation of a Department program, activity, or service, in accordance with 28 C.F.R. § 35.130(h);
- c. If the inmate seeking to participate in or benefit from the Department program, activity, or service, poses a Direct Threat to the health or safety of the inmate or others. To determine whether an inmate poses a Direct Threat, the Department must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of Auxiliary Aids or Services will mitigate the risk, in accordance with 28 C.F.R § 35.139 (b).

**408.02**

**DEFINITIONS**

Americans with Disabilities Act (ADA): A federal law that prohibits discrimination based on disability, as set forth in 42 U.S.C. §12101 *et seq.*

ADA Record: File folder containing inmate ADA-related documents that shall follow the inmate if they transfer to another Department institution.

Auxiliary Aids and Services: Appropriate specialized equipment and/or services designed to facilitate Effective Communication and assist in providing and Inmate with a Disability access to programs, services, activities and/or benefits within the Department. (Examples of Auxiliary Aids and Services include, but are not limited to: qualified interpreters, note-takers, large-print written materials, telecommunication devices, assistive listening devices and open/closed captioning, wheelchairs, canes.)

Blind: Refers to an inmate whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter is 20 degrees or less.

CapTel Telephones: A specialized telephone that permits verbal communication in the same manner as a traditional telephone and automatically connects to a captioning service that transcribes the content of the conversation, which provides captions on the device's built-in screen.

Deaf: Denotes individuals who cannot hear or who, as a result of hearing loss, are impaired in processing linguistic information through hearing, with or without amplification.

Department ADA Coordinator for Inmates: The individual designated by the Deputy Commissioner who is responsible for coordinating the Department's compliance with the ADA as it relates to inmates and the provisions of 103 DOC 408.

Direct Threat: A significant risk to the health or safety of the Deaf or Hard-of-Hearing inmate or others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of Auxiliary Aids and Services as provided in 28 C.F.R. § 35.139.

Disability Accommodation Resources Assessment: An assessment by the Department's Institution ADA Coordinator and/or the Department's ADA Coordinator for Inmates of the inmate's hearing related or sight related needs so that they may effectively communicate and have effective, meaningful, and substantially equal access to Department programs, services, and activities.

Effective Communication: Communication that is as clear and understandable to persons with disabilities as it is for persons who do not have disabilities. Effective Communication affords Inmates with Disabilities an opportunity to participate in, and enjoy the benefits of, DOC's services, programs, and activities in a manner that is substantially equal to the opportunity provided to similarly situated inmates who do not have disabilities.

Hard-of-Hearing: An inmate who has some degree of hearing loss ranging from mild to profound.

Inmate with a Disability: An inmate who has a physical or mental impairment that substantially limits one or more major life activities; or who has a record or history of such impairment; or is perceived or regarded as having such impairment.

Institution ADA Coordinator: The individual designated by the Superintendent responsible for ensuring institution compliance with the ADA as it applies to inmates and 103 DOC 408.

Late Deafened: An inmate who has a severe to profound hearing loss, which occurred after the inmate's development of speech and language.

Major Life Activities: In general, activities that include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, standing, bending, communicating, learning and working. Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, organs, skin, normal cell growth, digestive system, bowel and bladder.

Massachusetts Commission for the Deaf and Hard-of-Hearing (MCDHH): MCDHH is the principal agency in the Commonwealth working on behalf of people of all ages who are Deaf and Hard-of-Hearing.

Psychologically Disabled: An inmate who has a record of, or is regarded as having, one or more mental disorders, as defined in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

Physically Disabled or a Person with a Physical Disability: A term that refers to an inmate who has a chronic physical infirmity or impairment, whether congenital or resulting from bodily injury, organic processes, or changes from illness, including but not limited to, epilepsy, blindness, deafness or hearing impairment, or reliance on a wheelchair or other remedial appliance or device.

Qualified Sign Language Interpreter: A sign language interpreter certified by the National Registry of Interpreters for the Deaf or approved by the Massachusetts Commission for the Deaf and Hard-of-Hearing who can interpret effectively,

accurately, and impartially, both receptively and expressively, using American Sign Language (ASL).

Reasonable Accommodation: Any modification or adjustment to a program, activity or service that enables an Inmate with a Disability to participate in the program, activity or service, but which modification or adjustment does not cause an actual risk or impairment of the safe operation of the institution, fundamentally alter the nature of the program, activity or service, present an undue financial or administrative burden, or pose a Direct Threat to the health and safety of the inmate or others.

Substantial Limitation: An impairment that significantly restricts an inmate's ability to perform a Major Life Activity.

Telephone with Amplified Volume Control: A telephone with a built-in volume button that allows the user to amplify the call volume.

Teletypewriter (TTY) device: A device which allows text communication over a telephone line designed for use by persons with a hearing disability.

Videophone: A telecommunication device with a camera and a screen that allows for visual, real-time communication.

Video Relay Service (VRS): A video telecommunication service that allows persons who are deaf or hard-of-hearing to communicate over video telephones and similar technologies with hearing persons in real time, via a sign language interpreter.

#### **408.03**

#### **SELF-EVALUATION AND COMPLIANCE PLAN**

Each Superintendent's objective shall be to provide an environment in their institution which is accessible to Persons with a Disability. Each Superintendent is required to annually conduct a self-evaluation of the institution, including its programs, activities, services, administrative manuals, guides, policies, procedures, practices, directives, and memoranda. Each Superintendent shall ensure that a self-evaluation plan analyzes whether institution policies, procedures and practices adversely affect the full participation of Inmates with a Disability in its programs, activities and services. Each Superintendent shall then develop a compliance plan to ensure that modifications, which do not fundamentally alter the program, service or activity, and/or which do not cause undue hardship to the Department, are made.

1. Each Superintendent shall self-evaluate by:
  - a. Examining each program, activity and service in its entirety to determine whether any physical or other barriers to access exist;

- b. Reviewing institution policies, procedures and practices to determine whether any exclude or limit the participation of Inmates with a Disability in its programs, activities or services;
  - c. Reviewing institution policies, procedures and practices to ensure Effective Communication with all inmates, including Inmates with a Disability;
  - d. Reviewing institution policies, procedures and practices to ensure they include provisions for inmates with visual impairment, hearing impairments and/or mobility impairments. This review shall include determining a method for securing these provisions, including guidance on when and where these provisions shall be provided. Where equipment is used as part of the program activity or service, an assessment shall be made to ensure the equipment is usable by inmates with visual, hearing, mobility, or other impairments and that said equipment is in working order;
  - e. Reviewing institution procedures to ensure that all evacuation plans address the needs of Inmates with a Disability during an emergency;
  - f. Reviewing institution policies and procedures to ensure inmates with mobility impairments are provided access to group activity in accordance with 103 DOC 473, *Inmate Self Improvement Groups*;
  - g. Ensuring staff are familiar with institution policies and procedures pertaining to inmates with disabilities and ensuring that training is provided to staff.
2. Each Superintendent shall develop a compliance plan that addresses the necessary modifications noted in the self-evaluation which does not fundamentally alter the program, activity or service, or cause undue hardship to the Department. The compliance plan shall also justify any exclusionary or limiting policies or practices that will not be modified.
  3. Each Superintendent shall submit a copy of the annual self-evaluation assessment or any updated self-evaluation assessment to the Department ADA Coordinator for Inmates and the Director of Resource Management.

**408.04**

**DEPARTMENT ADA COORDINATOR FOR INMATES**

The Deputy Commissioner of Clinical Services and Reentry shall appoint a Department ADA Coordinator for Inmates from the Health Services Division (HSD), who shall be knowledgeable regarding the ADA, as well as other

provisions of relevant local, state and federal laws. The duties of the Department ADA Coordinator for Inmates shall include, but not be limited to, the following:

1. Develop procedures for the prevention of discrimination against Inmates with a Disability;
2. Conduct annual reviews of the Department's administrative directives, policies and institution procedures and recommend changes to assist in compliance with the ADA;
3. Consult with institution and Department administrators to coordinate, plan, and purchase adaptive equipment for Inmates with a Disability;
4. Consult with the Director of Resource Management, and recommend structural changes, where warranted, to comply with ADA requirements;
5. Consult with the Assistant Deputy Commissioner (ADC) of Clinical Services and Reentry/designee, to implement practices which enable Inmates with a Disability to be placed in institutions appropriate for specific disabilities, consistent with safety and security;
6. Coordinate with outside service providers for the provision of Reasonable Accommodations for Inmates with a Disability, consistent with safety and security;
7. Consult with the Director of the Division of Staff Development to:
  - a. Coordinate training for all staff on the requirements of this policy;
  - b. Provide assistance to staff, including all Institution ADA Coordinators, in determining whether and how Reasonable Accommodations may be provided;
  - c. Facilitate ongoing specialized training for all Institution ADA Coordinators;
8. Review monthly Institution ADA Coordinator reports related to ADA activity and compile statistics for a semi-annual composite report to the Commissioner;
9. Ensure prompt responses to questions regarding this policy and/or ADA requirements and full compliance with this policy and/or ADA requirements;
10. Act as appellate authority regarding requests for Reasonable Accommodations.



**408.05****INSTITUTION ADA COORDINATOR**

Generally, the Deputy Superintendent of Reentry at each Institution shall act as the Institution ADA Coordinator for Inmates. The Institution ADA Coordinator shall be trained in the requirements of this directive and all ADA requirements that are relevant to the Institution ADA Coordinator's duties. The Institution ADA Coordinator's duties shall include, but not be limited to, the following:

1. Review proposed and existing directives, policies and procedures to assess compliance with Department guidelines. Provide recommendations to the Superintendent for potential corrective action;
2. Receive copies of all inmate requests for Reasonable Accommodation;
3. Engage the inmate in dialogue regarding their request for a Reasonable Accommodation(s);
4. Conduct timely initial processing of all inmate requests for accommodations;
5. Consult with the appropriate staff to address requests for accommodation;
6. Ensure that each inmate request for a Reasonable Accommodation(s), whether verbal or in writing, is addressed. If the request is verbal, the Institution ADA Coordinator shall attempt to ensure that the inmate completes the Department's **Request for Reasonable Accommodation** form (Attachment A). If the inmate refuses to or is incapable of completing the form, the Institution ADA Coordinator shall ensure that the form is completed by staff, noting the refusal or the reason assistance was needed;
7. Conduct Disability Accommodation Resources Assessment of inmates identified as having hearing-related or sight-related disability. The **Disability Accommodation Resources Assessment** form (Attachment F);
8. Ensure that each housing unit, library, or alternative accessible location, has adequate copies of the Department's Request for Reasonable Accommodation Forms and that there is assistance available for those inmates who, for reason of disability, are not able to independently complete the form;
9. Ensure that appropriate documentation concerning an inmate's Reasonable Accommodation(s) is maintained in the inmate's ADA Record;

10. Submit a monthly ADA activity report to the Superintendent and the Department's ADA Coordinator for Inmates as required.

**408.06**

**NEW INMATE ADMISSION**

1. Booking, medical, or orientation staff shall ask newly admitted inmates, within the first twenty-four (24) hours of arrival, if they require an accommodation because of a disability and shall record the inmate's response. Booking staff responsible for intake at each institution shall provide all newly admitted inmates to that institution with a copy of an **Inmate Orientation to ADA** form (Attachment D) to be reviewed and signed by the inmate and the staff providing the form. If an inmate states that they require an accommodation because of a disability, or alternatively, where staff have reason to believe a disability exists, the designated staff person shall provide the inmate with the Inmates with Disabilities Notice of Rights Under the Americans with Disabilities Act and a copy of 103 DOC 408, *Reasonable Accommodations for Inmates*. Additionally, staff shall notify inmates of all telecommunication services and devices available at the institution by providing the **Telecommunication Aids and Services for Effective Communication** form (Attachment E). Moreover, said staff person shall, as soon as practicable, inform the Institution ADA Coordinator or designee of the newly admitted inmate's request and/or need for an accommodation within twenty-four (24) hours of the inmate's arrival.
2. Whenever it is determined that a newly admitted inmate is Deaf or Hard-of-Hearing, Blind, or has other physical or mental impairments which significantly limit access to programs and services in the institution, they shall be evaluated by the appropriate medical/mental health staff within seventy-two (72) hours of admittance for assessment and classification consistent with safety and security. Those inmates who did not receive the Inmates with Disabilities Notice of Rights Under the Americans with Disabilities Act and a copy of 103 DOC 408, *Reasonable Accommodations for Inmates*, pursuant to 103 DOC 408.06 (1), shall receive a copy of the same. If an inmate is unable to effectively read or communicate through written English as a result of their disability, the Institution ADA Coordinator shall promptly provide the inmate with those Auxiliary Aids and/or Services necessary so the inmate may effectively communicate and receive effective and substantially equal access to all programs, services and activities. Inmates who are sight impaired shall receive large print copies or audio tape, if appropriate. Inmates who are Deaf and Hard-of-Hearing and whose primary language is American Sign Language (ASL) shall promptly be provided with a Qualified Sign Language Interpreter services. The Department shall ensure that all inmates have access to 103 DOC 408.

**408.07**

**REQUESTS FOR REASONABLE ACCOMMODATIONS**

A. How to Initiate a Request for Reasonable Accommodations:

1. An inmate's request for Reasonable Accommodation may be initiated in one of three (3) ways:
  - (a) by verbal or written request to any Department staff member, including the Institution ADA Coordinator;
  - (b) by a verbal or written request to or from medical/ mental health staff for a medically prescribed accommodation; or,
  - (c) By completion of the Request for Reasonable Accommodation form (Attachment A).
  
2. When a request for a Reasonable Accommodation is initiated by an inmate directly to the Institution ADA Coordinator, the request shall be reviewed within three (3) business days of receiving a written or verbal request. When a request for a Reasonable Accommodation is initiated by an inmate directly to a staff person it must be provided to the Institution ADA Coordinator the same day it is received. The Institution ADA Coordinator shall evaluate the requested accommodation to determine whether it would present any safety or security concerns, whether it would fundamentally alter the nature of the service, program or activity, whether it would create an undue financial burden, and, if necessary, whether there are feasible alternative ways of accommodating the special need. In making these determinations, the Institution ADA Coordinator shall consult with the Superintendent and may consult with the appropriate correctional, medical and/or mental health staff. The decision to modify or deny an accommodation that would result in a fundamental alteration or in undue financial or administrative burdens, or for safety and security concerns, or for the inmate seeking to participate in or benefit from a Department program, activity, or services who poses a Direct Threat to the health and safety of the inmate or others must be made by the Commissioner or their designee and documented with the basis for modifying or denying the accommodation. The Institution ADA Coordinator shall: (1) store this documentation in the inmate's ADA Record; and (2) shall give the inmate a hard copy of this documentation along with written notification of the decision modifying or denying the requested accommodation and notice of the inmate's right to appeal within no more than three (3) days after the decision is rendered.
  
3. Decisions on an inmate's Request for Reasonable

Accommodation(s) shall be rendered by the Institution ADA Coordinator within twenty (20) business days from the receipt date, unless additional information from correctional medical and/or mental health staff is required to render a decision..

4. Inmates may also initiate requests for a Reasonable Accommodation with the contracted medical/mental health provider via the special needs/restriction process. If the medical restriction is approved, the contracted medical/mental health provider shall inform the Institution ADA Coordinator. The Institution ADA Coordinator shall review the accommodation to determine whether the accommodation would present any safety or security concerns, whether it would fundamentally alter the nature of the service, program, or activity, whether it would create an undue financial burden and, if necessary, whether there are feasible alternative ways of accommodating the special need.
5. An inmate requesting a Reasonable Accommodation, whether through medical/mental health staff or directly to the Institution ADA Coordinator, shall expressly agree in writing to cooperate with the institution in the handling of /their request. Cooperation shall include, but is not limited to, agreeing to be interviewed by institution and/or medical/mental health staff, as well as agreeing to an examination by medical/mental health staff in an effort to resolve the request. Although an inmate's refusal to agree to such cooperation may not result in the outright denial of /their Request for Reasonable Accommodation, their refusal may affect the outcome decision, i.e., the omission of necessary information may cause a denial. An inmate who refuses to cooperate in the handling of a request for Reasonable Accommodation through medical/mental health staff shall sign a medical treatment refusal form.
6. Upon receiving notification of a request for Reasonable Accommodation pursuant to 103 DOC 408.07 (1), the Institution ADA Coordinator shall attempt to engage in dialogue with the inmate. The Institution ADA Coordinator shall discuss with the inmate /their impairment(s) which forms the basis of the request.
7. After discussing the accommodation with the inmate, the Institution ADA Coordinator shall first assess whether the accommodation is reasonable. If so, the Institution ADA Coordinator shall assess whether the request impacts any safety or security concerns, necessitates any physical plant adjustments, requires accessibility alternatives for a program or service or, whether the request for a Reasonable Accommodation requires a

further assessment of the inmate's physical/mental condition.

8. If an inmate requires an Auxiliary Aid or Service for Effective Communication, the department must provide an opportunity for the inmate to request the Auxiliary Aid or Service of their choice and must give primary consideration to the choice expressed by the inmate. "Primary consideration" means that the Department must hone the choice, unless it can demonstrate that another equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration of the service, program, or activity, an undue financial and/or administrative burden, or actual risk or impairment of the safe operation of a DOC institution or the service, program, or activity.
9. If a safety or security concern exists which prohibits the granting of the request, the Institution ADA Coordinator shall assess whether an alternative to the original request exists. If so, and provided this alternative does not present any medical/mental health concerns, the Institution ADA Coordinator shall discuss the alternative with the inmate. After this discussion, if the inmate accepts the alternative, the Institution ADA Coordinator shall indicate a modification decision on the Request for Reasonable Accommodation Form. If there is no alternative, or if the inmate refuses the proposed alternative, the Institution ADA Coordinator shall indicate a denial decision on the Request for Reasonable Accommodation Form. In either instance, the basis for the decision shall be clearly documented.
10. If the accommodation request requires a physical plant adjustment, the Institution ADA Coordinator shall consult with the Superintendent and institution engineering staff to determine the feasibility of the adjustment. If necessary, the Department's Director of Resource Management shall be consulted. If it is determined that an adjustment shall be made, the Institution ADA Coordinator shall ensure that appropriate steps are taken to accommodate the request. They shall indicate on the Request for Reasonable Accommodation Form that the request is granted, indicating the basis for the decision. If it is determined that the adjustment is not able to be provided, the Institution ADA Coordinator shall assess whether an alternative exists. If so, they shall discuss the alternative with the inmate. After this discussion, if the inmate accepts the alternative, the Institution ADA Coordinator shall indicate a modification decision on the Request for Reasonable Accommodation Form. If there is no alternative, or the inmate refuses the proposed alternative, the Institution ADA Coordinator shall indicate a denial decision on the Request for

Reasonable Accommodation Form. In either instance, the basis for the decision shall be clearly documented.

11. If the accommodation request requires accessibility alternatives for a program or service, the Institution ADA Coordinator shall consult with the appropriate institution staff member who oversees the program or service to determine the feasibility of the request. If necessary, the Department's Director of Program Services shall be consulted. If it is determined that accessibility is warranted, the Institution ADA Coordinator shall ensure that appropriate steps are taken to accommodate the request. They shall indicate on the Request for Reasonable Accommodation Form that the request is granted, indicating the basis for the decision. If it is determined that the accommodation is not able to be provided, the Institution ADA Coordinator shall assess whether an alternative exists. If so, they shall discuss the alternative with the inmate. After this discussion, if the inmate accepts the alternative, the Institution ADA Coordinator shall indicate a modification decision on the Request for Reasonable Accommodation Form. If there is no alternative, or the inmate refuses the proposed alternative, the Institution ADA Coordinator shall indicate a denial decision on the Request for Reasonable Accommodation Form. In either instance, the basis for the decision shall be clearly documented.
12. The Institution ADA Coordinator shall store all approved, modified, and or denied Reasonable Accommodation documentation in the inmate's designated ADA Record. Additionally, all completed Request for Reasonable Accommodation Forms shall be forwarded to the Department ADA Coordinator for Inmates.
13. If the request for Reasonable Accommodation requires an assessment of the inmate's physical/mental health condition, then the Institution ADA Coordinator shall arrange for the inmate to be evaluated by the institution's appropriate medical or mental health care provider. If medical/mental health staff determine that a medically prescribed accommodation is warranted, they shall convey the medical/mental health order to the Institution ADA Coordinator via the **Medical Restrictions Form**, Attachment H to the 103 DOC 630, *Medical Service* policy, and shall enter the order in the "Restrictions/Limitations/Special Needs" section of the "Medical Restrictions" screen of the Medical Module of the IMS.
14. Under no circumstances shall correctional staff substitute their judgment for that of medical/mental health staff where a medical accommodation has been prescribed. Additionally, a determination



by medical/mental health staff to not prescribe a medical order or medical accommodation to an inmate shall not preclude the Institution ADA Coordinator or Department ADA Coordinator for Inmates from approving other accommodations that are necessary for the inmate's Effective Communication or effective, meaningful, and substantially equal access to Department programs, services, and activities. All medical orders are valid through the specified expiration date and shall be reviewed no less than annually. Medically prescribed accommodations will also be reviewed annually, which review will include addressing institution safety and security concerns. Should a medically prescribed accommodation require a modification under these circumstances, the Institution ADA Coordinator shall notify medical/mental health staff of the safety/security concerns so that medical/mental health staff can appropriately modify the prescribed accommodation.

15. Upon approval of a Reasonable Accommodation, regardless of how the request was initiated, the Institution ADA Coordinator shall prepare and send an **Accommodation Approval Memorandum** (Attachment C) to the concerned inmate and distribute copies as indicated on the form and to whomever else the Institution ADA Coordinator deems necessary in order to properly implement the accommodation. The Institution ADA Coordinator shall store this approved Reasonable Accommodation documentation in the inmate's designated ADA Record. The Institution ADA Coordinator shall also enter the accommodation(s) in the "ADA" screen of the Medical Module of the IMS. Additionally, if the approval of a Reasonable Accommodation indicates a medical or mental health need, it shall be forwarded to the institution's Health Services Administrator, who shall upon receipt of the Memorandum, enter a brief but informative description of the accommodation(s) in the "Restrictions/Limitations/Special Needs" section of the "Medical Restrictions" screen of the Medical Module of the IMS.
16. The Department shall not assess the cost of approved accommodations to the Inmate with a Disability in accordance with 28 C.F.R. 35.130(f).
17. If the request is denied, the inmate shall be notified in writing and advised of the right to appeal the decision to the Department's Inmate ADA Coordinator within 10 business days from receipt from the Institution ADA Coordinator. Additionally, the Institution ADA Coordinator shall store this denied Reasonable Accommodation documentation in the inmate's designated ADA

Record.

18. The Department shall provide appropriate Auxiliary Aids and/or Services, including Qualified Sign Language Interpretation and writing assistance, to any inmate who cannot effectively complete the Department's Reasonable Accommodation process without such accommodations due to a disability. Auxiliary Aids and/or Services will be made available at all stages of the Department's Reasonable Accommodation process, including to assist the inmate in (1) completing the request for Reasonable Accommodation form; (2) Effectively Communicating with the Institution ADA Coordinator; (3) Effectively Communicating with the contracted medical provider staff conducting an evaluation related to a medically prescribed accommodation; (4) reading and fully understanding the content of a decision concerning a requested accommodation; and/or (5) completing the appeal form. Inmates who need Auxiliary Aids and Services to access the Reasonable Accommodation process will not be required to submit a written request or complete the Department's Reasonable Accommodation process in order to receive assistance in any stage of the Reasonable Accommodation process.

#### **408.08**

#### **APPEAL**

Whenever an accommodation is either modified or denied, the inmate may appeal the decision to the Department's ADA Coordinator for Inmates. The appeal must be filed within ten (10) business days from receipt of the Institution ADA Coordinator's decision unless the Department ADA Coordinator for Inmates waives the time limitation for good cause. The appeal must be submitted on the Department's **Request for Reasonable Accommodation Appeal** form, (Attachment B). Upon request, Inmates with Disabilities shall be provided assistance in completing the appeal form. The Department ADA Coordinator for Inmates shall review the appeal and may consult with the Institution ADA Coordinator or any other appropriate Department, institution or contracted medical/mental health staff in order to render a decision. The Department ADA Coordinator for Inmates may take any action that an Institution ADA Coordinator may take (e.g., consult with the inmate or appropriate institution staff). The Department ADA Coordinator for Inmates shall render a decision on the appeal within twenty (20) business days, unless additional information from correctional medical and/or mental health staff is required to render a decision.

#### **408.09**

#### **INMATE WORK PROGRAMS**

The Department shall provide Inmates with Disabilities opportunities for institutional work assignments that are consistent with the opportunities for the

same assignments afforded to other inmates. No eligible Inmate with a Disability shall be prevented from participation in, or from enjoying the benefits of, existing work programs. The work assignment plan shall provide that eligible Inmates with a Disability have work opportunities in existing work programs available commensurate with their abilities and which are consistent with the institution's safety and security operations in accordance with 103 CMR 450, *Institution Work Assignments*. If the Department denies an Inmate with a Disability access to work assignments on the basis that the work assignment presents a Direct Threat of injury or death to the inmate, the reason for that decision must be documented in the inmate's ADA Record.

**408.10**

**AUXILIARY AIDS AND SERVICES**

Auxiliary Aids and Services are provided to assist an inmate in effectively accessing existing programs and services, including but not limited to:

- a. Educational/vocational/religious activities;
- b. Appeal procedures;
- c. Administrative or disciplinary proceedings, including protective custody and restrictive status hearings;
- d. Orientation and classification proceedings;
- e. Mental health counseling; and
- f. Medical services.

**408.11**

**AUXILIARY AIDS AND SERVICES FOR INMATES WHO ARE BLIND, VISUALLY IMPAIRED, DEAF, HARD-OF-HEARING, AND LATE DEAFENED**

1. When an inmate has been identified as Deaf or Hard-of-Hearing or Blind or visually impaired at any time during their incarceration, including at intake or by the Department's contracted medical provider, the Institution ADA Coordinator shall conduct a Disability Accommodation Resources Assessment that assesses the inmate's hearing related or sight related needs so that he/she/they may effectively communicate and receive effective, meaningful, and substantially equal access to Department programs, services, and activities during their incarceration.
2. Auxiliary Aids and Services shall be provided, when medically necessary or approved through the Disability Accommodation Resources Assessment or the Reasonable Accommodation process, as determined by the Department, to assist an inmate who is disabled to ensure access with a Reasonable Accommodation to existing programs, services, activities and/or benefits within the Department.
3. If an inmate arrives in Department custody with a hearing-related or sight-

related medical device or hearing-related or sight-related Auxiliary Aid, they shall be permitted to retain such assistive device pending intake assessment by contracted medical provider staff, absent security concerns.

4. If an inmate's hearing or vision impairment has been identified as a clinical condition that is not expected to resolve or improve through the passage of time, the contracted medical provider will designate a medically prescribed Auxiliary Aid or Service as an open-ended medical restriction, which will be subject to periodic reviews for appropriateness. If such medical restriction is modified or discontinued, the reasons for the modification or discontinuation will be documented.
  - A. Deaf, Hard-of-Hearing and Late Deafened:
    1. Auxiliary Aids and Services for Deaf, Hard-of-Hearing, and Late Deafened inmates may include the following:
      - a. Captioned telephone/CapTel telephone ;
      - b. Telephone with Amplified Volume Control;
      - c. Videophones (Inmates whose primary language is sign language);
      - d. Video Relay Services (VRS) (Inmates whose primary language is sign language);
      - e. Teletypewriter (TTY);
      - f. Hearing aid compatible telephone;
      - g. Qualified Sign Language Interpreter;
      - h. Communication Access Real Time Translation (CART);
      - i. Closed caption television/VCR decoder;
      - j. Sound amplification and assistive listening devices when deemed medically necessary;
      - k. Sound signals and flashing alarms;
      - l. Visual and sound smoke alarms;
      - m. Vibrating watch;
      - n. Hearing aids and batteries, when deemed medically necessary;
      - o. Pictogram flashcard;
      - p. ID Card or Badge;
      - q. ID sign for room;
      - r. Visual and tactile notification devices (Pagers or Receivers); and
      - s. Other items that might be reasonably required due to medical necessity.
    2. The Institution ADA Coordinator shall ensure that Deaf and Hard-of-Hearing inmates receive Auxiliary Aids and services to ensure Effective Communication during inmate orientation. All Deaf or Hard-of-Hearing

inmates whose primary language is ASL shall receive Qualified Sign Language Interpretation for the purposes of inmate orientation, interpretation of the Inmate Handbook, and interpretation of the notification regarding the telecommunication services and devices available to Deaf and Hard-of-Hearing inmates at Department Institutions.

3. The Institution ADA Coordinator shall make a written record of any accommodations provided to Deaf and Hard-of-Hearing inmates for the purposes of orientation in each inmate's ADA Record.
4. The Department reserves the right to confiscate any Auxiliary Aid if the Deaf or Hard-of-Hearing inmate for whom it has been approved intentionally destroys, damages, and/or alters said Auxiliary Aid or intentionally misuses it to use it for an unintended purpose. If an Auxiliary Aid is confiscated, the Department shall take other action(s) to nevertheless ensure that the Deaf or Hard-of-Hearing inmate receives effective access to programs and/or services.
5. The Department shall allow all Deaf and Hard-of-Hearing inmates who utilize hearing aids to keep their hearing aids on their person in all housing placements and/or assignments, absent a legitimate health or security risk specifically related to the inmate's retention of the hearing aid(s). If the Department denies a Deaf or Hard-of-Hearing inmate access to hearing aids on this basis, the reason for this decision must be documented in the inmate's ADA Record.
6. The Department shall ensure that, if a Deaf or Hard-of-Hearing inmate who utilizes hearing aids is placed on a Mental Health watch, the Department's contracted medical provider shall not confiscate their hearing aids unless the contracted medical provider determines that the inmate's retention of the hearing aids presents a risk to the inmate's health, safety, or security. If the contracted medical provider confiscates a Deaf or Hard-of-Hearing inmate's hearing aid(s) in such circumstances, the reason for that decision shall be documented in the inmate's medical records.
7. Qualified Sign Language Interpreters: When it has been determined that a Deaf or Hard-of-Hearing inmate needs an ASL interpreter to have communications that are substantially as effective as communications by hearing inmates, the Department shall ensure that Qualified Sign Language Interpreter services are available at the programs, appointments and/or major events listed below without requiring the inmate to submit a request for accommodation pursuant to the 408 Policy:
  - a. Inmate orientation;
  - b. Classification hearings;

- c. Sex Offender treatment programming (to be provided by the Department's Sex Offender Treatment Provider);
  - d. Inner Perimeter Security or other Department investigations and related questioning;
  - e. Disciplinary proceedings;
  - f. Medical appointments, evaluations, mental health services, to include mental health rounds for inmates in BAU/SAU, (but excluding routine medical events like daily insulin shots or trips through the medication line) that occur within DOC Institutions (to be provided by the Department's medical provider);
  - g. BAU/SAU proceedings at which the inmate has the opportunity to appear in person;
  - h. Grievance interviews;
  - i. Scheduled meetings with the Institutional ADA Coordinator, Department ADA Coordinator for Inmates, or Contract Medical Provider (to be provided by the Department's medical provider) concerning request for accommodations;
  - j. Educational and vocational classes in which the inmate is enrolled;
  - k. All programs included on the inmate's Personalized Program Plan in the Need Areas of Substance Abuse, Criminal Thinking, Anger, Cognitive/Behavioral, Academic Education/Vocational, and Sex Offender Treatment );
  - l. Any programs in which the inmate is enrolled for which earned good time may be awarded, leading to a possible reduction in sentence, or where a liberty interest may be implicated;
  - m. Programs and meetings concerning reentry and discharge planning;
  - n. Religious Services; and
  - o. Any specific pre-release Department program recommended by the Parole Board.
8. Inmate requests for Qualified Sign Language Interpretation for events and circumstances other than the ones listed above shall be considered and processed in accordance with the 408 Policy. When circumstances prevent the Department from providing necessary interpreter services for the programs, appointments, and/or major events listed above, the Department must document in writing the reason(s) that such services could not be provided and must take any other action to ensure that, to the maximum extent possible, the Deaf or Hard-of-Hearing inmate receives substantially equal access to the benefits or services provided by the Department.
9. ASL is the most commonly encountered form of sign language in the United States. If the Institutional ADA Coordinator requires assistance or guidance in accommodating a non-ASL sign language speaker, they should contact the Department ADA Coordinator for Inmates.
10. The Department is not required to provide a Qualified Sign Language



Interpreter for a program or event if: (1) the inmate knowingly and voluntarily waives in writing /their right to a Qualified Sign Language Interpreter; (2) the Department can demonstrate that another substantially equal and effective means of communication is available; or (3) provision of a Qualified Sign Language Interpreter would result in a fundamental alteration in the service, program, or activity, in undue financial or administrative burdens, or in actual risks or impairment of the safe operation of a Department institution or the service, program, or activity..

11. Telecommunication Services: The Department offers telecommunication devices and services to Deaf and Hard-of-Hearing individuals and to other Inmates with a Disability to enable Effective Communication with people outside Department institutions. These devices and services include Videophones, Video Relay Services (VRS), Teletypewriters (TTY), Captioned Telephones (CapTel), Telephones with Amplified Volume Control, and hearing aid compatible traditional phones.
12. Videophones are available to Deaf and Hard-of-Hearing inmates whose primary language is sign language. The purpose of videophones is to enable approved inmates who communicate using sign language to Effectively Communicate with sign language speakers outside of DOC institutions through point-to-point video communication and to communicate with hearing individuals outside of DOC institutions through the use of VRS, which allows communications between signing inmates and hearing individuals through a sign language interpreter.
13. Deaf and Hard-of-Hearing inmates may be approved for and receive regular access to more than one of the above telecommunication service(s) or device(s).
14. Inmates who have been approved to use videophones, VRS, TTY, and/or CapTel devices will be allowed **twice the amount of time** to complete calls using these devices as is afforded to inmates who complete telephone calls using traditional telephones, subject to operational or security concerns or administrative constraints (e.g., institutional emergencies).
15. Visual and/or tactile notification devices: Vibrating watches that can be set to vibrate at specified times (major counts, for example) shall be available to approved Deaf and Hard-of-Hearing inmates.
16. Deaf and Hard-of-Hearing inmates whose primary language is sign language are not required to complete a request for Reasonable Accommodation or to complete the Reasonable Accommodation process to be approved for access to videophone, CapTel, or TTY devices or to be provided a vibrating watch. Deaf and Hard-of-Hearing inmates whose primary language is sign language shall also be offered a pager/receiver

that will allow Department staff to send an alert to the inmate's device.

17. Oral announcements and commands, whether through a public address system or other means, shall be communicated to inmates who are Deaf, Late Deafened and Hard-of-Hearing in a manner which can be understood. Deaf, Late Deafened and Hard-of-Hearing inmates shall not be disciplined for failure to obey an order or rule which may not have been communicated to the Inmate with a Disability in a manner which could be understood by the inmate.

The institution shall ensure a means of notifying inmates who are Deaf, Late Deafened and Hard-of-Hearing, of such things as emergencies, counts, and announcements whenever and wherever the inmate may be in the institution, either manually, in writing, or otherwise.

B. Blind and Visually Impaired:

1. Assistive devices for Blind and visually impaired inmates may include the following:
  - a. Large print books;
  - b. Books on tape;
  - c. Trained inmate assistants designated by the Superintendent;
  - d. Orientation and inmate handbooks in large print or audio as needed;
  - e. Cane, when deemed medically necessary;
  - f. Pictogram flashcard;
  - g. ID Card or Badge;
  - h. ID Sign for room;
  - i. Note takers;
  - j. Talking/vibrating watch;
  - k. Braille materials;
  - l. Braille Teletypewriter (TTY); and
  - m. Other items that might be reasonably required due to medical necessity.
2. The Institution ADA Coordinator shall ensure that Blind or visually impaired inmates receive such Auxiliary Aids and Services to ensure Effective Communication during inmate orientation, interpretation of the Inmate Handbook, and interpretation of the notification regarding the telecommunication services. The Institution ADA Coordinator shall make a written record of any accommodations provided to Blind or visually impaired inmates for the purposes of orientation in each inmate's ADA Record.
3. When circumstances prevent the Department from providing necessary

aids and services for programs, appointments, and/or major events, the Department must document in writing the reason(s) that such aids and services could not be provided and must take any other action to ensure that, to the maximum extent possible, the Blind or visually impaired inmate receives substantially equal access to the benefits or services provided by the Department.

4. The Department reserves the right to confiscate any Auxiliary Aid if the Blind or visually impaired inmate for whom it has been approved intentionally damages and/or destroys said Auxiliary Aid, or intentionally misuses or alters said Auxiliary Aid in order to use it for an unintended purpose. If an Auxiliary Aid is confiscated, the Department shall take other action(s) to nevertheless ensure that the Blind or visually impaired inmate receives effective access to benefits and/or services.

The Department shall allow all Blind or visually impaired inmates who utilize Auxiliary Aids to have them on their person in all housing placements and/or assignments, absent a legitimate health or security risk specifically related to the inmate's retention of the Auxiliary Aid(s). If the Department denies a Blind or visually impaired inmate access to Auxiliary Aids on this basis, the reason for this decision must be documented in the inmate's ADA Record.

The Department shall ensure that, if a Blind or visually impaired inmate who utilizes Auxiliary Aids is placed on a Mental Health Watch, the Department's contracted medical provider shall not confiscate their Auxiliary Aids unless the contracted medical provider determines that the inmate's retention of the Auxiliary Aids presents a risk to the inmate's health, safety, or security. If the contracted medical provider confiscates a Blind or visually impaired inmate's Auxiliary Aid(s) in such circumstances, the reason for that decision shall be documented in the inmate's medical records.

5. The institution shall ensure that a trained inmate assistant designated by the Superintendent is provided for inmates who are visually impaired during an emergency or any type of movement as necessary.

#### **408.12**

#### **TRAINING**

The Director of Staff Development shall develop an ADA training Curriculum in conjunction with the Department's ADA Coordinator for Inmates for all Department employees and contractors. All new employees and contractors shall receive ADA training as a component of pre-service training and Institution orientation. Existing employees shall receive ADA training as needed by the ADA Institution Coordinator.

The ADA Coordinator at each institution shall receive specialized training by a competent authority related to ADA and trained in the requirements of this directive.

**408.13**

**INTER-INSTITUTIONAL TRANSFERS**

1. The Superintendent of each institution shall ensure that the written and automated records of all admissions to the institution are reviewed for approved accommodations as part of the admissions process. Additionally, the institution's admission procedures shall include a mechanism by which the Institution ADA Coordinator, or Shift Commander during non-business hours, is either notified upon the arrival of transferred inmates with approved accommodations or proactively ensures the review of the applicable screen(s) in IMS to note such arrival.
2. Pending a review by the receiving institution's medical staff, all medically prescribed accommodations that were approved at the sending institution shall be honored at the receiving institution, subject to any adjustments made as a result of the initial medical screening process. Upon review, should medical staff determine that a modification or discontinuance of the medically prescribed accommodation is appropriate, they shall convey such changes to the Institution ADA Coordinator pursuant to the procedure set forth in 103 DOC 408.06.

Under no circumstances shall correctional staff at the receiving institution substitute their judgment for that of medical staff where a medical accommodation has been prescribed at the sending institution.

3. Pending a review by the receiving institution's ADA Coordinator, all accommodations, other than those medically prescribed, that were approved at the sending institution, shall be honored at the receiving institution to the extent possible, given the receiving institution's differing security level, rules and requirements.

The ADA Coordinator at the receiving institution may alter the accommodation in a manner consistent with 103 DOC 408.07, based upon factors or conditions at that institution. In doing so, the Institution ADA Coordinator should consult with the appropriate correctional, medical and/or mental health staff.

**408.14**

**STAFF ACCESS**

The Department will provide appropriate Auxiliary Aids and/or Services including, Qualified Sign Language Interpretation and writing assistance, to any Inmate with a Disability to ensure that they have effective access to Staff Access

periods that is substantially equal to the access available to other inmates at the same institution, or, alternatively, that they have effective access to Department staff who are available during Staff Access periods in a separate meeting at least as frequently as other inmates who have access to such staff during Staff Access periods at the same institution. Inmates who, by reason of their disability, cannot effectively access the Department's Staff Access period shall not be required to submit a written request or complete the Department's Reasonable Accommodation process in order to receive assistance regarding Staff Access.

The Department will engage in dialogue with the inmate who needs Auxiliary Aids and/or Services which must be scheduled in advance (e.g. Qualified Sign Language Interpreters, CART services, etc.) to establish the frequency the inmate intends to attend Staff Access periods.

#### **408.15**

#### **GRIEVANCE PROCEDURE UNDER THE ADA**

The Department provides an inmate grievance procedure, 103 CMR 491, *Inmate Grievances*, as required by the American with Disabilities Act (ADA). It may be used by an inmate who wishes to file a complaint alleging discrimination on the basis of disability with regard to services, activities, programs, or benefits that are provided by the Department. 103 CMR 491, *Inmate Grievances*, is available for inmates to view in the institution library.

The Department will also provide appropriate Auxiliary Aids and/or Services including, Qualified Sign Language Interpretation and writing assistance, to any inmate who needs accommodation(s) to effectively complete the Department's grievance process. Auxiliary Aids and/or Services will be made available at all stages of the Department's grievance process. Inmates who, by reason of their disability, cannot effectively complete the Department's grievance process shall not be required to submit a written request or complete the Department's Reasonable Accommodation process in order to receive assistance with the grievance process.

Any inmate who is unable to initiate the grievance process in writing as a result of their impairment may inform a Correctional Program Officer or the Institution ADA Coordinator that they require assistance to initiate or complete the grievance process.

#### **408.16**

#### **SUSPENSIONS DURING EMERGENCY OR TO FURTHER LEGITIMATE SECURITY INTERESTS**

In an emergency or disruption of normal institutional operation, or in furtherance of the legitimate security interests of an institution or the Department, any provision or section of this policy may be suspended, for any inmate or all inmates, by the Commissioner or designee.

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF CORRECTION**

**REQUEST FOR REASONABLE ACCOMMODATION**

<b>Name of Inmate:</b>	<b>Inmate's #:</b>
<b>Institution:</b>	
<b>Describe your disability:</b>	
<b>How does this disability limit your daily activities?</b>	
<b>What accommodation(s) are you requesting for your disability?</b>	

I expressly agree to cooperate in the handling of my request, including but not limited to, agreeing to be interviewed by medical/mental health staff, as well as agreeing to an examination by medical/mental health staff in an effort to resolve the request.

\_\_\_\_\_  
**Inmate Printed Name**

\_\_\_\_\_  
**Inmate Signature and Date**

**Received by:**

\_\_\_\_\_  
**Employee Printed Name**

\_\_\_\_\_  
**Employee Signature and Date**

**Please send completed form to: Institution ADA Coordinator**

**\*\* DENIED REQUESTS FOR REASONABLE ACCOMMODATIONS MAY BE APPEALED TO THE DEPARTMENT INMATE ADA COORDINATOR WITHIN 10 BUSINESS DAYS FROM THE DATE OF THE INSTITUTION ADA COORDINATOR'S DECISION.**





Attachment B

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF CORRECTION**

**APPEAL FROM DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION**

<b>Name of Inmate:</b>	<b>Inmate's #:</b>
<b>Institution:</b>	
<b>Rationale for appeal:</b>	
<b>What accommodation(s) are you requesting for your disability?</b>	

I expressly agree to cooperate in the handling of my request, including but not limited to, agreeing to be interviewed by medical/mental health staff, as well as agreeing to an examination by medical/mental health staff in an effort to resolve the request. Additionally, I understand that my Request for Reasonable Accommodation (Attachment A) will be reviewed by the Department ADA Coordinator for Inmates during the appeal process.

\_\_\_\_\_  
**Inmate Printed Name**

\_\_\_\_\_  
**Inmate Signature and Date**

**Please send completed form to:**  
Department Inmate ADA Coordinator  
Health Services Division  
50 Maple Street  
Milford, MA 01757

**To be completed by the Department ADA Coordinator for Inmates**

**Request for reasonable accommodation appeal received on:** \_\_\_\_\_  
**Date**

**Medical staff has been consulted regarding appeal (circle one):**

YES

NO

**Name of Medical/Mental Health Staff Consulted:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**A medical order exists concerning inmate's accommodation:**

YES (please attach)

NO

**Request for reasonable accommodation is:**

Granted ( ); Modified ( ); Denied ( )

**Basis for decision:**

**Signatures:** \_\_\_\_\_  
**Department ADA Coordinator for Inmates**

**Date:** \_\_\_\_\_

**TO:** \_\_\_\_\_ **FROM:** \_\_\_\_\_  
**Inmate Name** **ID#** **Deputy Superintendent, IAC**

**RE: Inmate With A Disability Reasonable Accommodation**

**DATE:** \_\_\_\_\_ **EXPIRATION DATE:** \_\_\_\_\_

Be advised the above named inmate is authorized for the following Reasonable Accommodation(s) due to a limitation or impairment in one or more major life activities.

**LIMITATIONS:**

		<b><u>Dates</u></b>	
		<b><u>From</u></b>	<b><u>To</u></b>
1.	<b><u>Work Program:</u></b>		
	( ) No Work	_____	_____
	( ) Light Work	_____	_____
	( ) No Heavy Machinery/Heights	_____	_____
	( ) Other _____	_____	_____
2.	<b><u>Physical Activity:</u></b>	<b><u>From</u></b>	<b><u>To</u></b>
	( ) Difficulty with Ambulation	_____	_____
	( ) Prosthetic Device	_____	_____
	( ) Other _____	_____	_____

**SPECIAL NEEDS/ACCOMMODATIONS:**

1.	<b><u>Special Housing:</u></b>	<b><u>From</u></b>	<b><u>To</u></b>
	( ) Close Proximity to H.S.U.	_____	_____
	( ) H.S.U. Bed	_____	_____
	( ) Floor Level	_____	_____
	( ) Other _____	_____	_____
2.	<b><u>Handicapped Accessibility:</u></b>	<b><u>From</u></b>	<b><u>To</u></b>
	( ) Wheelchair	_____	_____
	( ) Handicapped Cell	_____	_____
	( ) Bottom Bunk	_____	_____
	( ) Other (e.g. Visual, Hearing) _____	_____	_____
3.	<b><u>Special Items (Describe Below):</u></b>	<b><u>From</u></b>	<b><u>To</u></b>
	( ) _____	_____	_____
	( ) _____	_____	_____
	( ) _____	_____	_____

**TRANSPORTATION RESTRICTIONS:**

**From**

**To**

- ( ) Modified Restraint(s) due to: \_\_\_\_\_
- ( ) Sedan \_\_\_\_\_
- ( ) Wheelchair Van \_\_\_\_\_
- ( ) Other \_\_\_\_\_

**COMMENTS:**

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**COPY:**

- Assistant Deputy Commissioner of Clinical Services**
- Superintendent**
- Deputy Superintendent of Reentry**
- Director of Security**
- Shift Commanders, 7-3, 3-11, 11-7**
- Health Services Administrator**
- Institutional Assignment Officer**
- Property Officer**
- Inmate's Six-Part Folder**
- File**

**Massachusetts Department of Correction**  
**Inmate Orientation to ADA**

If you have a disability (defined below), you have the right to request reasonable accommodations per DOC policy 103 DOC 408, *Reasonable Accommodations for Inmates*, in order to make programs and services you are receiving, or will receive, more accessible and usable to you. Under the Americans with Disabilities Act (ADA), an individual with a disability is a person who has:

- A physical or mental impairment that substantially limits one or more major life activities, such as: walking, talking, hearing, seeing, caring for oneself, or working;
- A record of such impairment; or
- Is regarded as having such an impairment.

A reasonable accommodation is any change in the environment or the way in which tasks are completed that allows you to participate in the program or service. The Department will, upon request, provide appropriate auxiliary aids and services to enhance communication for qualified inmates with disabilities so that they may participate fully in programs and services. The Department will provide other means of making information and communications accessible to inmates who have speech, hearing, or vision impairments. Reasonable accommodations and appropriate auxiliary aids and services will be provided unless doing so would pose a safety and security risk, fundamentally alter the nature of the program or service, present an undue financial burden, or pose a direct threat to the health or safety of the inmate or others.

**How to Ask for a Reasonable Accommodation**

If you need a reasonable accommodation at any point while in the custody of the Massachusetts Department of Correction, ask any staff for a 103 DOC 408, Request for Reasonable Accommodation form (Attachment A), to fill out. Request forms can also be found in housing units and the institution library. Fill out the Request Section of the form, sign, and date it. If you need help filling out the request, ask a staff person. The Department shall provide appropriate auxiliary aids and/or services, including Qualified Sign Language Interpreters and writing assistance, to any inmate who cannot effectively complete the Department's reasonable accommodation process without such accommodations due to a disability. Your request will ordinarily be reviewed and responded to within twenty (20) business days after the staff member receives your request. You will receive the decision regarding your request in writing by the Institution ADA Coordinator.

**How to Make a Complaint/Seek Review**

If your request for accommodation is denied or modified by the Institution ADA Coordinator, or if you disagree with the decision, you have the right to file an appeal to the Department ADA Coordinator for Inmates by completing the Appeal from Denial of Request for Reasonable Accommodation which any staff can give you or which you can obtain in the library.

By signing below, you are stating that you have been oriented and understand your rights under the ADA while in the custody and/ or supervision of the Massachusetts Department of Correction.



**NO, I am not requesting an accommodation at this time. I have been provided the Telecommunication Aids and Services for Effective Communication form.**

Inmate Printed Name: \_\_\_\_\_  
Inmate Signature: \_\_\_\_\_ Inmate ID #: \_\_\_\_\_  
Institution: \_\_\_\_\_ Date: \_\_\_\_\_  
Staff Printed Name: \_\_\_\_\_ Staff Signature: \_\_\_\_\_

**YES, I am requesting a reasonable accommodation at this time.**

**I have been given a Request for Reasonable Accommodation form to complete. I have been provided the Inmates with Disabilities Notice of Rights Under the Americans with Disabilities Act, copy of policy 103 DOC 408, *Reasonable Accommodations for Inmates*, and the Telecommunication Aids and Services for Effective Communication form.**

Inmate Printed Name: \_\_\_\_\_  
Inmate Signature: \_\_\_\_\_ Inmate ID #: \_\_\_\_\_  
Institution: \_\_\_\_\_ Date: \_\_\_\_\_  
Staff Printed Name: \_\_\_\_\_ Staff Signature: \_\_\_\_\_

cc: Institution ADA Coordinator, Inmate ADA Record

## **Telecommunication Aids and Services for Effective Communication**

Videophone, Video Relay Service (VRS), Teletypewriter Telephone (TTY), Captioned Telephone (CapTel), Telephone with Amplified Volume Control and Hearing Aid Compatible Telephone

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### **Videophone and Video Relay Service (VRS)**



Videophones are video devices for those who use sign language to communicate with others. Videophones can be used by inmates who are Deaf and/or Hard of Hearing and whose primary or secondary language is American Sign Language (ASL) or another sign language.

Inmates can make direct videophone calls to effectively communicate with sign language speakers through point-to-point video communication.

VRS is a telecommunications service that enables people who use sign language to communicate with voice telephone users by video through an interpreter.

Inmates can request this reasonable accommodation through the Reasonable Accommodation process in DOC 408, Reasonable Accommodations for Inmates or through the Disability Accommodations Resources Assessment process.

Telephones will be placed in accessible locations for inmates with disabilities who have been granted access to Videophones.

Posters on Placing a Direct and VRS call shall be available to view above all stationary Videophones and in the respective housing units.

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### **Teletypewriter Telephone (TTY)**

TTY is a text-based telecommunication device that allows people to type messages back and forth, either through MA Relay Services or directly to another person with a TTY. TTY can be used by inmates with disabilities who have the ability to type written messages.

Inmates can request this reasonable accommodation through the Reasonable Accommodation process in DOC 408, Reasonable Accommodations for Inmates or through the Disability Accommodations Resources Assessment process.

Telephones will be placed in accessible locations for inmates with disabilities who have been granted access to TTY phones.

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*Telephone hours of operation and accessibility need to be equal to that which is available to all inmates in the Institution. Also, telephone calls utilizing Videophones, VRS, TTY and CapTel phones shall be afforded twice the amount of time to complete calls as is afforded to inmates who complete telephone calls using traditional telephones, subject to operational or security concerns or administrative constraints (e.g., institutional emergencies).*

## **Telecommunication Aids and Services for Effective Communication Cont.**

Video Phone, Video Relay Service (VRS), Teletypewriter Telephone (TTY), Captioned Telephone (CapTel), Telephone with Amplified Volume Control and Hearing Aid Compatible Telephone

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### **Captioned Telephone (CapTel)**

CapTel telephones are telephones that display real-time text captions throughout the conversation, allowing the user to both listen to the call and/or read the written captions.

Inmates can request this reasonable accommodation through the Reasonable Accommodation process in DOC 408, Reasonable Accommodations for Inmates or through the Disability Accommodations Resources Assessment process.

Telephones will be placed in accessible locations for inmates with disabilities who have been granted access to CapTel telephones.

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## **Traditional Telephones Adapted for Use by Deaf and Hard of Hearing**

### **Telephone with Amplified Volume Controls**

Traditional telephones include a built in volume button that allows the user to amplify the call volume.

### **Hearing Aid Capable Traditional Telephones**

Traditional telephones are hearing aid compatible in accordance with Federal Communication Commission Guidelines.



*Telephone calls utilizing amplified traditional telephones and hearing aid compatible traditional telephones shall be afforded the same amount of time to complete calls as is afforded to inmates who complete telephone calls using traditional telephones.*

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*The Department will, upon request, provide appropriate auxiliary aids and services to enhance communication for qualified inmates with disabilities so that they may participate fully in programs and services. The Department will also provide other means of making communications accessible to inmates who have speech, hearing, or vision impairments.*

*Supervisory staff on all shifts are trained on the location of the telephones, how to access the telephones, and how to properly utilize the equipment.*

### Disability Accommodation Resources Assessment

Inmate Name: \_\_\_\_\_ Date of Assessment: \_\_\_\_\_

Assessment conducted by: \_\_\_\_\_

Which describes you?



I am HARD OF HEARING       Right Ear       Left Ear       Both Ears



I am DEAF       Right Ear       Left Ear       Both Ears



I am BLIND       Deaf-Blind       Partially Blind       Legally Blind

Which device(s) do you presently use?

Hearing Aid(s)       Right Ear       Left Ear       Both Ears

Cochlear Implant(s)       Right Ear       Left Ear       Both Ears

Other: \_\_\_\_\_

Please indicate what, if any, telecommunication device accommodations you are requesting:

CapTel Captioned Telephone       Telephone with Amplified Volume Control       Video Phone

TTY / TDD Teletypewriter       Video Relay Services (VRS)       Braille TTY

Please indicate what, if any, aid(s) and/or service accommodations you are requesting:

Block Letter Communicator       Closed Captioned Video       Hearing Aid(s)

I.D. Card or Badge       I.D. Sign for Room       Picture Flashcard(s)

Pocket Talker Device       Receiver / Pager       Vibrating Watch

Talking Watch



## Disability Accommodation Resources Assessment

### Index of Terms

#### Telecommunication Devices:

**CapTel (Captioned Telephone)** – A specialized telephone that permits verbal communication in the same manner as a traditional telephone and automatically connects to captioning service that transcribes the content of the conversation, which provides captions on the device’s built-in screen.

**Telephone with Amplified Volume Control** –A telephone with a built-in volume button that allows the user to amplify the call volume.

**Videophone** – A telecommunication device with a camera and a screen that allows for visual, real-time communication.

**Teletypewriter (TTY)** – A device which allows text communication over a telephone line designed for use by persons with a hearing disability.

**Video Relay Services (VRS)** – A video telecommunication service that allows persons who are deaf or hard-of-hearing to communicate over video telephones and similar technologies with hearing person in real time, via a sign language interpreter.

**Braille TTY** – is a device that enables a deaf-blind person who reads braille to use the telephone. This device can also be used as a face-to-face communication device with which a deaf-blind person can communicate with a sighted individual who does not know braille.

#### Aids and Services:

**Block Letter Communicator** - is a communication device for individuals who are deaf-blind and who do not know Braille to communicate with sighted individuals. When a sighted person types on the unit's keyboard, the characters are presented as extra-large tactile block letters which a deaf-blind individual can feel.

**Closed Caption Video** – provides synchronized text of speech associated with a video, computer or television presentation.

**I.D. Card or Badge** – identifies the wearer as deaf, hard of hearing, blind, or visually impaired.

**I.D. Sign for Room** – identifies an occupant as deaf, hard of hearing, blind, or visually impaired.

**Picture Flashcard(s)** – these are visual aids that employ pictures to facilitate communication with deaf and hard of hearing individuals or other inmates with a disability.



**Pocket Talker Device** – is a small unit, about the size of a deck of cards, with an attached microphone that transmits sound signals to someone wearing earphones or earbuds.

**Receiver / Pager** – is a small wearable device that can be used to alert or notify a deaf, hard of hearing, blind, or visually impaired individual by vibration, sound, or flashing lights.

**Talking Watch** – is a watch that presents the time in spoken sound to assist a blind or visually impaired person: i.e., appointments, count time, etc.

**Vibrating Watch** – is a watch that uses vibrations to enable a deaf or hard of hearing person to set reminder alerts; i.e. appointments, count time, etc.

## **Secondary Aids and Communication Accommodations:**

**Braille** – is a communication system that enables blind and/or deaf blind individuals to read and write through touch.

**Face-To-Face Lip Reading** – this is form of speech reading that helps individuals with hearing loss to understand speech by watching the speaker’s mouth and face.

**Gestures** – are non-verbal communications that add emphasis to spoken communication; i.e. facial expressions, body postures, hand movement, etc.

**Large Print Materials** – these are written materials which feature larger printing or font size.

**Nothing in or Obstructing the Mouth of a Person Speaking to You** – an unobstructed view of a speaker’s mouth is necessary for deaf and hard of hearing individuals who read lips. It is important that the speaker face the lip reader and does not have food and/or gum in his/her mouth while speaking.

**No Noise Environment** – quiet environments enable hard of hearing individuals to better hear, understand, and/or concentrate.

**Sign Language** – is a language that employs signs made with the hands and other movements, including facial expressions and postures of the body.

**Slow Rate of Speech** – speaking slowly and clearly, but naturally, without shouting enable hard of hearing individuals to better hear and/or understand.

**Sound Amplification** – is a means of increasing the volume of sound by natural means and/or devices; i.e. speaking loudly and/or using an assistive device.

**Writing Materials** – these may be helpful tools to facilitate short communications with some deaf and hard of hearing individuals.

**Written Communications** – text-based communications such as traditional text, TTY/TDD devices, closed captioning features, etc.

## **Communication, Interpretation, Translation, and Transliteration:**

**American Sign Language Interpreter** – American Sign Language (ASL) is the primary language of many North Americans who are deaf and hard of hearing. An ASL interpreter is specially trained to convert messages from ASL to spoken language.

**CART Provider** – Communication Access Real-time Translation (CART) is a service in which a certified CART provider listens to speech and instantaneously translates all the speech to text, which is then displayed on a monitor or mobile device.

**Certified Deaf Interpreter** – A Certified Deaf Interpreter (CDI) is a specialist who provides interpreting, translation and transliteration services, utilizing American Sign Language and other visual and tactual communication forms used by individuals who are deaf, hard of hearing, and deaf-blind.

**Fingerspelling** – is a form of sign language in which individual letters are formed by the fingers to spell out words.

**Oral Interpreter** – is an individual who can transliterate spoken messages between a person who hears and a person who is deaf or hard of hearing. They possess the ability to understand and repeat the message and intent of the speech and mouth movements of the person who is deaf or hard of hearing.

**Pidgin Sign Language Interpreter** – Pidgin Sign Language (PSE) is a combination of English and American Sign Language. A PSE interpreter is specially trained to convert messages from PSE to spoken language.

**Signed Exact English Interpreter** – Signed Exact English (SEE) is a system of language that matches sign language to the exact English translation. A SEE interpreter is specially trained to convert messages from SEE to spoken language.

**Tactile American Sign Language** – Primarily used by deaf-blind individuals, tactile sign language is a method of receiving sign language and/or fingerspelling by placing one's hands over a communication partner's hands to feel their shape and movement.

**Transliterator** – is an individual who signs word-for-word; not to be confused with an interpreter who is an individual who signs an equivalent and conceptually correct sign for a spoken word, phrase, or sentence.

# **EXHIBIT 25**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
Tallahassee Division**

**DISABILITY RIGHTS FLORIDA, INC.,**

**Plaintiff,**

**vs.**

**Case No. 4:16-cv-47-RH-CAS**

**JULIE JONES, in her official capacity as  
Secretary of the Florida Department of  
Corrections,**

**Defendant.**

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**SETTLEMENT AGREEMENT**

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
Tallahassee Division**

**DISABILITY RIGHTS FLORIDA, INC.,**

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**Case No. 4:16-cv-47-RH-CAS**

**JULIE JONES, in her official capacity as  
Secretary of the Florida Department of  
Corrections,**

**Defendant.**

\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

The Plaintiff, DISABILITY RIGHTS FLORIDA, INC., (“DRF”) and the Defendant, JULIE JONES, sued in her official capacity as Secretary of the Florida Department of Corrections (“FDC”) (collectively the “Parties”), have entered into this Settlement Agreement (“Agreement”) as a plan for settling this litigation. Both Parties agree to comply with the following terms. The Parties do not intend that this Agreement will be enforceable by an order of this Court. As set forth below, this Agreement is a contract enforceable in state court should the FDC significantly breach this Agreement. That this Agreement is not a Consent Decree is a key factor in FDC’s willingness to enter into this Agreement.

**I. BACKGROUND**

DRF initiated this action by filing a Complaint on January 6, 2016. In the Complaint, DRF alleges that FDC has violated and continues to violate, in a systemic fashion, Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Eighth

Amendment to the United States Constitution, and the Due Process Clause of the United States Constitution, in its treatment of inmates who have hearing, vision, and mobility disabilities. FDC responded to DRF's allegations by denying all liability.

DRF did not, and does not, assert any claims based on the treatment of, or on behalf of, FDC inmates with mental, emotional, cognitive, or developmental disabilities, unless those inmates also have a physical disability involving their hearing, vision or mobility. To the extent that inmates with mental, emotional, cognitive, or developmental disabilities also have hearing, vision, or mobility disabilities, this Agreement provides for compliance activities only for their hearing, vision, and mobility disabilities.

This Agreement is the product of multiple mediation meetings, and the Parties believe that this Agreement represents a fair settlement of DRF's claims.

## II. DEFINITIONS

1. **Days.** Unless otherwise specified, references to "days" shall be to calendar days. If the last day of the specified period falls on a weekend or holiday, the due date shall be the next business day.

2. **Deaf/Hard of Hearing Inmates.** Abbreviated herein as "D/HOH inmate". This means an FDC inmate with a physical impairment that substantially limits the inmate's hearing, as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102.

3. **Inmates with Vision Disabilities.** Abbreviated herein as "IVD." This means an FDC inmate with a physical impairment that substantially limits the inmate's seeing, as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102.

4. **Inmates with Mobility Disabilities.** Abbreviated herein as "IMD," or "IMDs." This means an FDC inmate with a physical impairment that affects the inmate's ability to move,



which substantially limits the inmate's major life activities of walking, standing, bending, performing manual tasks, lifting, reaching, or sitting, as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102 and 42 C.F.R. § 35.108.

5. **Covered Inmates.** For purposes of this Agreement, Covered Inmates means any Deaf/Hard of Hearing Inmate, Blind/Visually Impaired Inmate, or Inmate with a Mobility Disability.

6. **Compelling Security Concern.** For purposes of this Agreement, a "compelling security concern," as it relates to a reasonable accommodation, aid, or device, that has been provided or may be provided to a Covered Inmate, exists if the accommodation, auxiliary aid, or device cannot be adequately searched by FDC for contraband, is contraband, has been used as a weapon, can be weaponized to harm the Covered Inmate or others, or can be used to facilitate an escape. Documentation of the compelling security concern shall be maintained.

### III. GENERAL PLAN OF COMPLIANCE

The Parties agree to the following Plan of Compliance:

7. **Location of Covered Inmates.** Effective July 1, 2017, FDC will begin to locate Covered Inmates in the facilities listed in the attached Exhibit A. This will be accomplished by June 30, 2018, except for inmates in restrictive housing. Covered Inmates in restrictive housing cells will be moved as the architectural modifications to the restrictive housing cells are completed. All restrictive housing cells will be completed no later than December 31, 2019. The services contemplated for the Covered Inmates will be provided at the facilities listed, in accordance with the implementation schedules referred to herein.

8. **General Time Frames for Implementation of Requirements of General Plan of Compliance.** Attached as Exhibit B is an Implementation Schedule which describes the time

frames for implementation of the requirements of the General Plan of Compliance, except for architectural modifications which are described in paragraph 57 below. The Parties agree that the timing of compliance as set forth in this document is an essential term of the Agreement.

9. **Recreational Tracks.** Existing recreational tracks at the facilities listed on Exhibit A, that are used for activities such as running and walking by inmates, shall be paved so that they can be safely traversed by IVDs and IMDs.

10. **Health, Safety, & Welfare.** FDC reserves the right to temporarily suspend a Covered Inmate's access to any accommodation, aid, or device, to protect the health, safety, and welfare of inmates or staff.

11. **Changes to Physical Disability Policies.** FDC shall complete a review of its policies, rules, procedures, Health Service Bulletins, manuals, the Inmate Handbook, and post orders, and any associated forms that reference the treatment of Covered Inmates (hereinafter collectively referred to as "policies") to determine which of them must be modified to comply with the provisions of this Agreement. Within one hundred twenty (120) days from the Effective Date, FDC shall provide to DRF, in draft, the revisions to the policies. However, FDC will also provide revised drafts of the policies as they become available. DRF shall have sixty (60) days to provide feedback to FDC on the proposed revised changes. While FDC will consider DRF's feedback, FDC reserves the right to make the final decision as to policy content. Within thirty (30) days after receiving DRF's feedback, FDC will initiate rulemaking for those policies requiring Chapter 120 rulemaking, will adopt any finalized policies not requiring rulemaking, and will provide final copies to DRF. The FDC shall comply with these new policies to the extent that they relate to this Agreement.



12. **Initial Identification of Disabilities and Accommodations at Reception.** At Reception, FDC will attempt to identify whether an inmate has a hearing, vision, or mobility disability. If it is determined that the inmate is a Covered Inmate, FDC will determine the extent of the disability, and whether he or she needs any accommodations, aids, or services. For D/HOH Inmates and IVD Inmates, FDC will evaluate the verbal and written communication skills, reading level, and where appropriate, the inmate's proficiency in sign language (including American Sign Language) by an appropriate professional. The sign language evaluation must be completed by a Qualified Interpreter. The assessment must also include documentation of any needs and accommodations desired by the inmate, and FDC will consider the Covered Inmate's stated preferences. FDC shall conduct an individualized assessment of the need for accommodations, aids, or services required by the Covered Inmate. Results of this assessment will be documented and placed in the Covered Inmate's record, documented in FDC's electronic system (currently called "Offender Based Information System" or OBIS), and will be made available as needed, to FDC staff responsible for the inmate's medical care, programs, or custody and supervision at both Reception and the permanent prison. The FDC will use this information so that needed accommodations, aids, or services are provided.

13. **Periodic Re-assessments of Covered Inmates.** At least once per year, FDC will conduct periodic re-assessments of Covered Inmates to determine whether any changes in accommodations are necessary. These re-assessments shall include but not be limited to determining whether the Covered Inmate is receiving effective accommodations for his or her disability, whether the Covered Inmate desires any other accommodations, and a medical examination, if appropriate. Results of any changes in the Covered Inmate's status, or his or her



permitted accommodations, will be provided, or made available, to FDC staff responsible for the Covered Inmate's medical care, programs, or custody and supervision.

**14. Repair or Replacement of Preexisting Accommodations; Sending to Designee.**

If a Covered Inmate comes into custody with an accommodation, auxiliary aid, or device and the accommodation, auxiliary aid, or device requires repair, FDC may provide another accommodation, auxiliary aid, or device in lieu of repairs. If this occurs and the Covered Inmate wishes to keep the original accommodation, auxiliary aid, or device, the Covered Inmate will be allowed to send the accommodation, auxiliary aid, or device to his or her designee.

**15. Making Materials Available in Accessible Formats.** All materials distributed or made available to inmates, including paper forms, signs, handbooks, orientation materials, instructional videos, grievances, etc., must also be in accessible formats.

**16. Procedure for Requests for Aids, Services, and Accommodations.** If an inmate requests an accommodation, aid, or service, the FDC will consider the request in good faith, interview the inmate if necessary, and refer the inmate for a medical evaluation as needed. The determination that an inmate, who has requested an accommodation, is not a Covered Inmate shall be made only after a recommendation from a medical doctor, if appropriate, and written approval by the statewide ADA Coordinator or his or her designee. The reasons for the determination must be documented in writing in the inmate's record.

**17. Other Requests for Accommodation.** If a Covered Inmate requests an accommodation, aid, or service that is not covered elsewhere in this Agreement, after a determination of need is made under the prior paragraph, FDC will provide the requested accommodation, aid, or service to the Covered Inmate unless (1) FDC has a compelling security, health, safety, or welfare concern, (2) the inmate already has an effective accommodation, (3) the

accommodation would cause an undue financial or administrative burden to FDC, (4) another reasonable and effective accommodation is available, or (5) the accommodation would constitute a fundamental alteration of an identifiable FDC program, service, or activity. The reasons for the denial must be documented in writing in the inmate's record.

18. **Passes.** The FDC will issue passes to Covered Inmates to implement any accommodations, aids, and services it has provided. All necessary passes for Covered Inmates will remain in effect even when a Covered Inmate is transferred to another facility, so that the Covered Inmate does not lose his or her accommodations, auxiliary aids, and services solely because of the transfer.

19. **No Co-Pay or Charge for Accommodations.** If FDC refers a Covered Inmate for a medical visit to assess the need for an accommodation, aid, or service, no medical co-pay will be charged to the Covered Inmate. No charges shall be assessed to a Covered Inmate for accommodations, aids, or services, including batteries to use the accommodation device, that are or have been previously approved by FDC.

20. **Confiscation of Approved Accommodations.** The FDC shall not confiscate a Covered Inmate's approved accommodation, aid, or service or fail to renew or approve a pass for a Covered Inmate's approved accommodation, aid, or service, unless there is a compelling security concern. All confiscations of Covered Inmates' approved accommodations, aids, or devices must be approved by the institutional warden who will confer with an ADA Coordinator and the Chief Health Officer of the institution.

21. **Work Release Centers and Re-entry Programs.** FDC will not refuse to send a qualified Covered Inmate to a community work release center or reentry program because the inmate has a mobility, hearing, or vision disability.



22. **Work and Educational Programming.** FDC shall not deny an otherwise qualified Covered Inmate access to work, vocational, or educational programming on the basis of that inmate's disability. If a Covered Inmate applies for a work position, or a vocational or educational opportunity, and that inmate meets the skill, experience, and education requirements, medical restrictions, custody level, criminal history and time remaining on sentence requirements, the FDC will not deny that individual the position or opportunity without documentation by an ADA Coordinator. The ADA Coordinator shall document whether (1) FDC can make reasonable modifications in policies, practices or procedures to permit the inmate to meet the essential functions of the position or opportunity, and (2) the modifications fundamentally alter the nature of the program, service or activity. Enrollment in courses offered by the Hadley School for the Blind shall not be the basis for denying an IVD inmate access to work, vocational, or educational programming that is otherwise available.

23. **PRIDE.** FDC shall not prevent a qualified Covered Inmate from participating in PRIDE work programs because the inmate has a mobility, hearing, or vision disability.

24. **Natural Supports.** A Covered Inmate shall not be punished on the sole basis that he or she asked another inmate for help due to his or her disability, or accepted such help, and an inmate shall not be punished on the sole basis that he or she provided such help.

25. **Allegations of Retaliation or Harassment.** Allegations of retaliation or harassment will be promptly investigated by FDC, and appropriate action will be taken.

#### IV. TRAINING

26. **FDC Staff.** By July 1, 2018, FDC shall begin to provide training appropriate to the responsibilities of all FDC medical care, programs, and custody and supervision staff who interact with Covered Inmates, on the following subjects: (A) disability laws, (B) the FDC's

process of evaluating impairments and disability, and providing information regarding that to staff, (C) the use and evaluation of impaired inmate assistants, (D) the process for Covered Inmates to request accommodations, (E) the availability and the use of accommodations that are provided by the FDC, (F) general information as to how to effectively work with Covered Inmates, (G) explanations of the use of sign language by D/HOH inmates, (H) the limitations of hearing aids, (I) appropriate ways to guide inmates who are blind or visually disabled, (J) orienting blind or visually disabled inmates to their environment, (K) assisting blind or visually disabled inmates with submitting grievances, appeals, Reasonable Modification or Accommodation Requests, Disciplinary Report paperwork and appeals, and other similar documents; (L) functional implications of being a D/HOH, IVD, or IMD inmate ; and (M) common misunderstandings about an individual's remaining sight, hearing, and mobility. The FDC shall utilize reasonable efforts to consult with the Florida Department of Education Division of Blind Services and the Florida School for the Deaf and Blind to develop its training modules. This training shall be provided by qualified personnel, and may be via webinar or online training. As draft written training materials for different training modules are completed, FDC will provide those materials to DRF. Within nine (9) months after the Effective Date of this Agreement, FDC will provide DRF with a copy of the written materials to be used for the training for DRF's feedback. DRF will respond within thirty (30) days; however, FDC reserves sole discretion on the content of its training materials. Within eleven (11) months after the Effective Date of this Agreement, FDC will provide DRF with a copy of any videos or online materials that may be used for the training for DRF's feedback. DRF will respond within thirty (30) days; however, FDC reserves sole discretion on the content of any video or online training materials. All staff who interact with Covered Inmates will receive a first training by July 1,



2019. This training will be repeated on an annual basis. When this training becomes available, new staff shall complete it as part of their initial orientation and training.

27. **Covered Inmates.** At Reception, FDC will provide additional orientation for Covered Inmates that includes the following subjects, as appropriate: (A) skills training, (B) orientation at the permanent prison, (C) the impaired inmate assistant program, (D) orientation to accommodations and services that are being provided (this must include information about devices available at FDC prisons), (E) quarterly impaired inmate meetings, (F) FDC's ADA coordinators, (G) filing requests for accommodation (including grievances and Reasonable Modification or Accommodation Requests), (H) services provided by The Division of Blind Services' Talking Book Program, and (I) services provided by the Hadley School for the Blind. The materials must be provided in a format that is appropriate and accessible for the individual Covered Inmate. When the Covered Inmate is transferred to a permanent prison, appropriate ADA training will be provided as needed.

The FDC shall facilitate general skills training for IVD inmates through the Hadley Institute for the Visually Impaired and Blind, and FDC shall also offer training on the use of the auxiliary aids and devices that have been provided to these inmates. The goal of this training is to promote independence among the IVD inmates. The FDC shall offer IVD inmates who have difficulty safely and independently moving on, and negotiating, steps, curbs, terrain, and facilities, skills training for traveling independently. The FDC shall also offer all Covered Inmates, as needed, skills training in self-care, shaving, the safe and independent administration of medicine, and traveling independently.

28. **Impaired Inmate Assistant.** Impaired Inmate Assistants ("IIAs") will receive initial and periodic training as to their job duties and performance criteria, as well as assisting

Covered Inmates. The assistance training will be designed to educate the IIAs to (A) a Covered Inmate's needs, (B) the use and evaluation of impaired inmate assistants, (C) general information as to how to effectively work with Covered Inmates with disabilities, (D) functional implications of being deaf/hard of hearing, blind/visually impaired, or having a mobility disability; and (E) common misunderstandings about an individual's remaining sight, hearing, and mobility.

Training for IIAs that assist IVD inmates will also include topics such as guiding, assisting with talking watches, assistance in recreational activities, reading aloud, assistance at meals, traveling stairs, and maintaining confidentiality of information.

Training for IIAs that assist with IMDs will also include topics such as safely pushing a wheelchair, helping someone to transfer to another seat, and assistance with daily life activities.

## **V. COMPLIANCE REQUIREMENTS FOR DEAF/HARD OF HEARING INMATES**

29. **Qualified Interpreters: American Sign Language, Oral Interpreters and Transliterators.** A qualified sign language interpreter ("interpreter") is one who, via a video remote interpreting service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. An individual does not need to be registered or licensed in order to be considered to be a qualified sign language interpreter, but an individual holding a valid certification from the National Registry of Interpreters for the Deaf or the National Association of the Deaf shall be deemed to be a qualified sign language interpreter. Preference will be given to interpreters who hold a certification from the National Registry of Interpreters for the Deaf or the National Association of the Deaf. FDC will exercise reasonable efforts to utilize interpreters who hold a certification from the National Registry of Interpreters for the Deaf or the National Association of the Deaf in hiring or contracting with interpreters.



30. **Access to Qualified Interpreters: American Sign Language, Oral Interpreters or Transliterations.** FDC shall make available an interpreter to any D/HOH inmate whose effective means of communication is sign language or speech-reading/lip-reading in the following situations: (A) medical, dental, and mental health appointments; (B) scheduled meetings with classification officers; (C) education programs; (D) substance abuse programs; (E) intake and orientation; (F) disciplinary hearings; (G) work and job training, including at PRIDE; (H) religious services; (I) any training for matters that are outside the routine day-to-day schedule; (J) PREA training; and (K) any pre-release and re-entry instructions.

The phrase “make available” includes making an interpreter available by video remote interpreting (VRI) service, or by an on-site appearance. VRI shall not be used when it is not effective. FDC shall adopt a policy to implement the use of VRI for D/HOH inmates. VRI will not be utilized if:

- A. A qualified sign language interpreter is available to provide onsite interpretation;
- B. The event at issue is long or complex;
- C. The individual has a secondary disability (such as low vision or physical mobility) that may impede the ability of the inmate to fully access the communications; and
- D. The individual has cognitive, psychiatric, or linguistic difficulties which impede effective communication through VRI.

To the extent that FDC provides qualified interpreters via VRI services, FDC shall provide:

- (1) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;

- (2) A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position;
- (3) A clear, audible transmission of voices;
- (4) Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI; and
- (5) Use of the VRI equipment in a location which safeguards the inmate's privacy, as much as any non-disabled inmate's privacy is protected.

31. **Use of Handcuffs.** Except when an inmate is being transported, FDC shall, as a reasonable accommodation, handcuff in the front D/HOH inmates whose effective means of communication is by sign language or writing, and shall only handcuff those inmates behind the back when there is a compelling security reason to do so. During disciplinary hearings, FDC will ensure that a D/HOH inmate whose effective means of communication is by sign language or writing, shall have sufficient freedom of movement for their hands.

32. **Hearing Aids.** When a D/HOH inmate is determined by FDC to need a hearing aid, it will be provided free of charge. When necessary as a reasonable accommodation, bilateral hearing aids will be provided. The FDC shall not confiscate the hearing aids of inmates who come to prison with them, but shall permit such inmates to retain and use them during their time in prison, unless there is a compelling security or medical reason; however, in the event that repair of such hearing aids is necessary, the FDC retains the option of providing the inmate with replacement hearing aids. FDC will provide training to inmates and staff on the processes to be used so that hearing aid batteries can be obtained free of charge. The FDC shall repair or replace hearing aids within a maximum of sixty (60) days of being advised of the need, unless due to the severity of the repair more time is necessary, in which event the repair shall be completed within a maximum of ninety (90) days.



33. **Teletypewriters.** Teletypewriters or a successor technology (TTYs) will be available in the dormitories for those D/HOH inmates who choose to use TTY in lieu of Videophones, or other devices and have the capability of using them. D/HOH inmates shall be permitted two times the normal time to use the TTY. The FDC shall ensure that staff is trained on how to operate the TTYs. Broken TTYs will be repaired or replaced within thirty (30) days. The TTY paper will be replaced when necessary. While the TTY is unavailable due to needed repairs, FDC will ensure that the inmate has access to another TTY. The FDC shall ensure that D/HOH inmates have access to the TIPS line using TTY. For legal calls, a TTY, for which a printout will not be maintained, will be available in another location on the compound which permits privacy.

34. **Telephone Amplification and Hearing Aid Compatibility.** FDC shall continue to provide standard telephones which offer volume amplification features, and that are compatible with hearing aids.

35. **Captioned Telephone (“CapTel”).** FDC shall provide captioned telephones (“CapTel”) for inmates who (1) can speak but cannot hear on the telephone, (2) do not use sign language to communicate, and (3) are unable to use a TTY phone, as long as the CapTel phones can be used in accordance with FDC’s security requirements.

36. **Video Relay Services.** Video enabled devices shall be available in kiosks in the dormitories which house D/HOH inmates in the facilities listed in Exhibit A to access the Video Relay Service (“VRS”) free of charge. The FDC shall ensure that staff is trained on how to operate the video enabled devices in the kiosks. Video enabled devices available in kiosks in the dorm which are broken will be repaired or replaced, within thirty (30) days. While the video enabled device is unavailable due to needed repairs, FDC will ensure that the D/HOH inmate has

access to another kiosk with another video enabled device in another dorm. The video enabled devices shall have the capability to access the TIPS line. The D/HOH inmates shall be permitted two times the normal time to use the video enabled device. Further, in all the facilities listed in Exhibit A, at least one video enabled device will be available in an area such that the call can be made confidentially for legal or court related calls.

37. **Alert Systems.** The FDC will install light boards and other visual alert systems in dormitories, which will be used to alert D/HOH inmates, whose condition prevents them from hearing announcements for events such as medical and legal call-outs, meal times, recreation times, counts, fire drills, and any other reason when an inmate needs to be alerted. In addition to the above, FDC will also explore other alternatives that may be used to alert D/HOH inmates to the events described above.

38. **Vibrating Watches.** FDC will utilize reasonable efforts to inform or remind the D/HOH inmate of necessary events or appointment "call outs." If notwithstanding that, the D/HOH inmate is unable to respond to necessary events or appointment "call outs" due to the inmate's hearing, a vibrating watch will be made available as an accommodation. In addition, all profoundly deaf inmates will receive a vibrating watch.

39. **Open or Closed Captioning.** FDC is not authorized by law to purchase televisions for the recreational use of inmates, so this creates practical impediments to ensuring that closed captioning exists for all television viewing; however, FDC will use reasonable efforts to locate television sets, which have closed captioning and place them in the dormitories where D/HOH inmates will be residing. If despite using reasonable efforts, FDC is unable to locate sufficient numbers of these televisions, this is not a violation of this Agreement. If a television set is equipped with a captioning chip, the captioning must be kept on at all times. All television sets



purchased by the FDC for education and wellness shall have closed captioning ability. If, after this Agreement is executed, any programming is produced by FDC that is transmitted over the television or computer, or any videos or DVDs are purchased by FDC for inmates' use (to include all educational or training material), the programming will be produced with captioning and the videos or DVDs will have captioning.

40. **FM Transmitters and Receivers.** In housing units designated for D/HOH inmates, TVs shall have FM Transmitters, and the FM transmitter will be turned on at all times when the TV is on. Broken FM transmitters will be repaired or replaced within thirty (30) days. When a D/HOH inmate is determined by the FDC to require an FM Transmitter as a reasonable accommodation, receivers will be provided. FDC will provide the additional appropriate devices needed to receive the FM signal.

## **VI. COMPLIANCE REQUIREMENTS FOR INMATES WITH VISION DISABILITIES**

41. **Housing.** IVD inmates will be housed with reasonable access to the IIAs. Dormitories will contain one or more dedicated charging stations for electronic accommodation devices. When IVD inmates are housed in open bay dorms, they shall receive appropriate accommodation for access to the bathroom, which can include orientation to the dorm, a clear path to the bathroom, and, if practicable, a bed close to the bathroom. IVD inmates will not be housed on the second floor of dormitories, except for compelling reasons on a temporary basis, or in the event of an emergency.

42. **White Canes.** White canes will be offered as an available accommodation device for those IVD inmates who are totally or legally blind, or those who have low vision and have difficulty safely and independently moving on, and negotiating, steps, curbs, terrain, and facilities. The length of the white cane shall be based on an individual's height, and generally

should stand at shoulder height, but the preference of the inmate will be considered. White canes must be available for replacement as soon as practicable, but no longer than two (2) weeks, and FDC shall provide an accommodation in the interim, as needed.

43. **Talking Watches.** FDC will utilize reasonable efforts to remind the IVD inmates of necessary events or appointment “call outs.” If, notwithstanding the reminders provided by FDC, and/or changes to the Call Out Lists as discussed below, the IVD inmate is unable to respond to necessary events or appointment “call outs” due to his vision, a talking watch will be made available as an accommodation. In addition, all totally blind inmates will receive a talking watch.

44. **Key Locks.** IVD inmates will be authorized to purchase a key lock to store their possessions in their lockers.

45. **Magnifiers.** Hand held magnifying glasses of various magnifications, which are made of plastic, shall be available in the library for use by IVD inmates. The library shall also contain a CCTV video magnifier for use by IVD inmates. IVD inmates who are legally blind or have low vision will be permitted to have plastic magnifying sheets in the dorms as an accommodation.

46. **Recorders/Players.** If an IVD inmate has made a request, and has demonstrated a need, to independently prepare correspondence, he will be provided with a recorder in or near the library to dictate correspondence despite whatever other aids or devices are available. The location will permit dictation confidentiality. If an IVD inmate has made a request, and has demonstrated a need, to independently listen to correspondence, he will be provided with a player in or near the library to listen to correspondence despite whatever other aids or devices are available. The location will permit confidentiality.



47. **General Library Services.** To the extent reasonably possible, the general library shall offer large print books and other written resources; otherwise, the hand held magnifying glasses, or CCTV video magnifier, can be utilized to enlarge print material. If the general library contains a computer, the computer will have a font enlargement feature, and a screen magnifier. Also, impaired inmate assistants or library clerks will be available to read out loud.

48. **Law Library Services.** The law library shall offer the hand held magnifying glasses to enlarge print material, and impaired inmate assistants or library clerks will be available to read out loud. In addition, computers will have a font enlargement feature, and a screen magnifier. One law library computer shall be equipped with a text-to-speech software (JAWS), and training on the use of the text-to-speech software will be available. If an IVD inmate has an inability due to his vision to read legal documents from retained counsel or the court, and is unable to use any other aid or device for that purpose, the inmate will be able to use an impaired inmate assistant, a law clerk, or a library clerk to read material out loud in a location in or near the law library that will permit confidentiality.

49. **Time to Work with Impaired Inmate Assistants, Library Clerks, and Law Clerks in or Near the Law Library.** Inmates with vision disabilities shall be provided up to fifty percent (50%) additional time to work with IIAs, library clerks, or law clerks in or near the law library beyond that amount of time that is normally afforded to the non-vision disabled.

50. **The Division of Blind Services' Talking Book Program.** Access to The Division of Blind Services' Talking Book Program (the "Program") will be an available accommodation device or aid for IVD inmates. Assistance will be provided to IVD inmates to register for the Program, select Program resources, and to send and receive Program resources. An IVD inmate's access to resources with regard to the number of resources that can be taken

out at one time, the use of the Talking Book players, etc. will be in accordance with the policies of the Program. The FDC will update its policies to reflect the policies of the Talking Book program. When DRF brings any issues with access by IVD inmates to Talking Books to FDC's attention during meetings or through liaisons, FDC will work with Talking Books to try to resolve those issues.

51. **Call Out Lists.** "Call Out" lists shall either be printed in at least 18-22 font, or, if necessary, the information contained on the Call Out list will be provided to the IVD inmates by alternative methods.

52. **Medical Care.** IVD inmates will receive the periodic vision examination that their condition requires. IVD inmates shall receive the treatment, medical procedures, or accommodations that are deemed to be medically necessary. IVD inmates who have been determined by FDC to have a sensitivity to light shall be issued dark tinted glasses or a hat.

53. **Correspondence Courses from Hadley School for the Blind.** Access to correspondence courses from Hadley School for the Blind ("Hadley") will be an available accommodation device or aid for IVD inmates. Assistance will be provided to IVD inmates to register for the Hadley courses, select Hadley courses, and to send and receive Hadley resources. An IVD inmate's access to Hadley resources will be in accordance with the policies of Hadley.

54. **Access to Grievance, RMAR, and DR System.** If an IVD inmate has an inability due to his vision to write written grievances, grievance appeals, requests using the Reasonable Modification or Accommodation forms, or responses to disciplinary actions, the inmate will have access to an impaired inmate assistant, law clerk, or a library clerk to prepare such written items. If that is not possible, the inmate will then have access to a FDC staff member for that purpose. An extension of time for filing informal grievances, formal



grievances, grievance appeals to the Office of the Secretary, or direct grievances to the Office of the Secretary shall be granted when it is clearly demonstrated by the inmate to the satisfaction of FDC that it was not feasible to file the grievance within the relevant time periods and that the inmate made a good faith effort to file in a timely manner.

55. **Impaired Inmate Assistants.** The IVDs, who have been determined by FDC to need an IIA as a reasonable accommodation, shall have access to IIAs who have the ability to effectively communicate with the IVDs to the extent possible, and will possess sufficient literacy skills to read aloud, and to follow oral requests. The IIAs will be periodically evaluated for fulfillment of established job duties and performance criteria, and any information provided by the Covered Inmate will be considered. When an IIA is unavailable, the FDC will make another IIA available. When not in special housing, IIAs shall be housed in the same dorm as the covered. FDC will provide documentation to DRF that Impaired Inmate Assistants have completed the training.

56. **FM Transmitters and Receivers.** If an IVD inmate has a need for enhancement of television sound in order to appreciate the programming, and preferential seating in the day room is not available, a receiver shall be provided to the IVD inmate as an accommodation to be used along with the FM transmitter. When the TV is on, the FM transmitter shall be turned on. Ear buds shall be made available in order to utilize the receiver.

## **VII. PLAN OF COMPLIANCE FOR INMATES WITH MOBILITY DISABILITIES**

### **57. Modifications to Prisons Where IMDs Will Be Housed.**

A. **Selection of an Architect.** Within thirty (30) days after the Effective Date, FDC will initiate procurement of the services of a licensed architect by following the procedures set forth in Florida Statute § 287.055. The selected architect must be

knowledgeable with ADA requirements and standards in prisons or jails, be licensed in Florida, and have experience assessing ADA accessibility in institutionalized settings. FDC will utilize the solicitation document that is attached as Exhibit C as the public announcement for these services. Both DRF and FDC may name one participant to the two-person selection committee that will consider which architect will be selected to perform the work required in this Agreement, consistent with state law procurement requirements. Both members of the selection committee will review each submitted proposal and evaluate them using the criteria set forth in Florida Statute § 287.055 and the applicant's experience assessing ADA accessibility in institutionalized settings, and preliminarily score them using the methodology currently used for competitive selection of professional architectural services, with the goal of selecting the most highly qualified firm. The three top-ranked firms will provide public presentations, after which final scoring will be done by the two-person selection committee. The scores from each member of the selection committee will be averaged and the firms will be ranked according to these scores. The person selected is referred to in this Agreement as the Architect.

The Parties intend for the Architect to be a neutral expert, and accordingly neither party will have contact with him/her about this case (other than for ministerial tasks such as arranging travel and payment) without the other party present or included in the communication. The Architect will be paid by FDC.

**B. Facilities and Areas in Facilities That Mark Mazz Has Already Inspected.** As to the facilities or areas within facilities listed in the attached Exhibit A which Mark Mazz has already inspected, and which FDC will use to house IMDs, FDC



will make the modifications necessary to remedy the items listed on the attached Exhibit D, which is an implementation schedule for architectural modifications which the Parties have agreed will be made. The items highlighted in yellow on Exhibit D, which can be remedied over the short-term, will be modified no later than December 31, 2017. The items highlighted in blue, which are long-term and structural, will be modified no later than June 30, 2020.

By April 30, 2018, the Architect will inspect and complete a written report describing whether the short-term items identified in Exhibit D have been remedied, and will provide that report to DRF and FDC upon completion. By December 31, 2020, the Architect will inspect and complete a written report to determine whether the long-term items identified in Exhibit D have been remedied, and will provide that report to DRF and FDC upon completion. FDC shall remedy any items identified by the Architect in either report as not being remedied within one hundred twenty (120) days of receiving the report, but in no event, no later than April 1, 2021.

**C. Facilities and Areas in Facilities That Mark Mazz Has Not Inspected.**

As to the facilities or areas within the facilities listed in the attached Exhibit A which Mr. Mazz has not inspected, and which FDC will also use to house IMDs, the Architect will conduct inspections in order to identify any items that do not meet ADA accessibility standards in areas where inmates have access. The Architect will inspect all areas where any prisoner is allowed to be, enter, or remain, whether or not prisoners actually enter or remain in that area. The inspections will be otherwise governed by the attached Exhibit E. The Parties may each send one representative, who is not an expert for either side, to accompany the Architect on the tour of the first facility, to ensure that the architect

appropriately applies ADA standards to all areas where inmates have access and inspects all appropriate areas. The inspections shall be completed within two hundred ten (210) days of the Effective Date. A written report listing any items that need to be remedied shall be prepared and provided to both FDC and DRF upon completion. The reports shall also explain whether there were any areas the Architect was not able or not permitted to inspect. DRF will confer with FDC if it believes that any areas were improperly excluded from the inspection, and the Parties shall negotiate in good faith to attempt to reach an agreement about whether the Architect must re-visit a facility to inspect those excluded areas. Within sixty (60) days of receiving the report, FDC shall inform DRF of the items that it will agree to remedy. As to the remaining items, the Parties shall negotiate in good faith in an attempt to reach an agreement on the items that will be modified. The items identified by the Architect as short-term shall be completed within two hundred forty (240) days of receipt of the report. The items identified by the Architect as long-term and structural will be modified no later than June 30, 2020. FDC shall not be required to make any architectural modifications that would result in a fundamental alteration in the nature of a service, program, or activity or in either an undue financial or administrative burden (as defined in 28 C.F.R. § 35.150), or a compelling security concern. Within sixty (60) days from the designated time for completion of the short-term remedies, the Architect will conduct an inspection to determine whether the short-term items have been remedied, and shall provide a written report to both FDC and DRF within sixty (60) days of those inspections. Within sixty (60) days from the designated time for completion of the long-term remedies, the Architect will conduct an inspection to determine whether the long-term items have been



remedied, and shall provide a written report to both FDC and DRF within sixty (60) days of those inspections. FDC shall remedy any remaining items in either report within one hundred twenty (120) days of receiving the report, but in no event later than April 1, 2021.

58. **Wheelchairs.** An IMD, who has been determined to need a wheelchair as an accommodation, may keep the wheelchair he had when he entered prison, absent a documented compelling security, health or safety concern. If that occurs, FDC will provide an alternative reasonable accommodation.

A wheelchair will be provided to any IMD if FDC determines it is necessary as a reasonable accommodation. FDC shall utilize an appropriate professional to determine the size and type of wheelchair.

FDC shall conduct quarterly inspections of the wheelchairs to determine whether they need repair or maintenance. If repair or maintenance is needed, it shall be completed within sixty (60) days of when FDC becomes aware of the need for the repair or maintenance, unless due to the severity of the repair more time is necessary, in which event the repair shall be completed within a maximum of ninety (90) days. In the interim, the IMD will be provided with a "loaner" chair.

59. **Prosthetic Devices.** An IMD, who has been determined to need a prosthetic device as an accommodation, may keep what he had when he entered prison, absent a documented compelling security, health or safety concern.

A prosthetic device will be provided to any IMD if FDC determines it is necessary as a reasonable accommodation. FDC shall utilize and follow the recommendations of an appropriate

professional to determine whether the device is operable, properly fitted, and to show the inmate how to use the device.

FDC shall conduct quarterly inspections of the prosthetic devices to determine whether they need repair or maintenance. If repair or maintenance is needed, it shall be completed within sixty (60) days of when FDC becomes aware of the need for the repair or maintenance, unless a determination is made that the prosthetic must be replaced or, due to the severity of the repair more time is necessary, in which event the repair or replacement shall be completed within a maximum of ninety (90) days. In the interim, the IMD will be provided with an alternative reasonable accommodation.

60. **Other Accommodations.** When an IMD is determined by FDC to require any of the following as a reasonable accommodation, these accommodations shall be provided: canes, walkers, rollators, trapeze bars, orthopedic shoes and socks, braces, wedges, appropriate mattresses, cushions, or wheelchair gloves, so long as there is no compelling security concern. If repair or replacement is needed, it shall be completed within sixty (60) days of when FDC becomes aware of the need for the repair or replacement. In the interim, the IMD will be provided with an alternative reasonable accommodation.

61. **Bathrooms and Showers.** IMDs who have been determined to require special accommodations in the shower or bathroom, such as grab bars, elevated toilets, shower chairs and seats, shower wands, and privacy screens, shall receive those accommodations. If repair or replacement is needed, it shall be completed within sixty (60) days of when FDC becomes aware of the need for the repair or replacement. Until the item is fixed and if it is required so that the IMD may shower or use the bathroom, the IMD will be provided access to a working shower



chair, grab bar, elevated toilet, shower wand, or privacy screen as needed in another dormitory as needed. FDC will permit the IMD to use a privacy screen in the ADA accessible shower.

62. **Impaired Inmate Assistants (IIAs).** If an IMD is determined by FDC to need an IIA as a reasonable accommodation, the IMD shall have access to IIAs who have the ability to push a wheelchair and effectively assist an IMD with walking, standing, transferring, and other daily life activities. The IIAs will be periodically evaluated for fulfillment of established job duties and performance criteria, and any information provided by the Covered Inmate will be considered. When an IIA is unavailable, the FDC will make another IIA available. When not in special housing, IIAs shall be housed in the same dorm as the Covered Inmate they are assisting.

#### **VIII. IMPLEMENTATION OF THE PLAN OF COMPLIANCE**

63. **Agreement to Implement the Plan of Compliance.** Subject to the terms of this Agreement, the Parties agree that the Plan of Compliance resolves all issues which have been raised in the Complaint, and should be implemented.

64. **No admission.** FDC has entered into this Agreement in order to avoid the necessity of trial. Nothing in this Agreement should be construed as an admission of liability by FDC, and the Agreement cannot be used as an admission by either Party in this or any other proceeding. Nothing in this Agreement or FDC's compliance with this Agreement shall be construed as an admission or concession by DRF that FDC is in compliance with the Americans with Disabilities Act, the Rehabilitation Act, or any other statutory or constitutional provision.

65. **Agreement is the Product of Multiple Sessions.** The Plan of Compliance, and this Settlement Agreement, are the product of multiple lengthy negotiation sessions and compromise by both DRF and FDC.

66. **Voluntary Dismissal.** Ten (10) days after the Effective Date, the Parties will file a Stipulated Notice of Dismissal with Prejudice pursuant to Rule 41(a)(1)(ii), Fed. R. Civ. P.

67. **Meetings.** Until July 1, 2018, representatives of FDC and representatives of DRF will meet in person at least once every quarter—although the schedule may be adjusted with the consent of both Parties—so that DRF can receive information from FDC on the implementation of the above-described Plan of Compliance, and DRF can share any feedback regarding the implementation. The first meeting will occur thirty (30) days after the Effective Date.

Thereafter, until April 30, 2021, representatives of FDC and representatives of DRF will meet in person on a quarterly basis, or more frequently as agreed to by the Parties. The meetings shall be held in Tallahassee, Florida at a location chosen by FDC, although the location and City may be adjusted with the consent of both Parties, or the meetings may be held by phone or videoconference with the consent of both Parties. At these meetings, the Parties will discuss the progress of implementation of the Plan of Compliance. It is envisioned that free, open and frank discussions of problems, limitations and successes will further the fulfillment of the Plan of Compliance. The discussions in these meetings shall not be used by either Party should additional or subsequent litigation be necessary. These meetings will also provide an opportunity for DRF to share any inmate specific issues (including providing inmate identifying detail) that may continue to exist notwithstanding FDC's efforts to implement the Plan of Compliance, in order to afford FDC an opportunity to investigate and address those issues. Four (4) weeks before the meeting—although DRF will endeavor to provide this notice as early as practicable—DRF will provide FDC with a report of any claimed problems or deficiencies, giving as much detail as possible regarding the matter, including the date, time, place, identification of any individuals involved, and a description of what occurred.



68. **Continued Protection and Advocacy Activities.** The Parties agree that this Agreement in no way limits DRF's protection and advocacy activities, and DRF may continue these efforts during the implementation of the Plan of Compliance.

69. **Party Liaisons and Presentation of Concerns.** Within thirty (30) days after the Effective Date, FDC and DRF will each designate a representative to serve as a liaison for purposes of ensuring compliance with this Agreement. If the liaison becomes unable, temporarily or permanently, to perform his or her duties, the party for the affected liaison shall designate an alternate who shall perform the duties of the liaison, and shall inform the other party in writing. In addition to the regularly scheduled meetings described in paragraph 67 above, DRF may present, in writing, ideas or concerns to the FDC liaison, including inmate specific concerns (providing as much detail as practicable under the circumstances so that the concerns may be investigated, and, where appropriate, corrective action may be taken). If DRF believes it needs access to a FDC employee or agent, it will be through the FDC liaison, and any written communication will be copied to the designated counsel for FDC. The Parties may also designate an attorney who will be copied on all communications between the liaisons. At the regularly scheduled meetings, described in paragraph 67 above, the Parties shall discuss, among other things, the communications that occur between meetings, the results of any investigation of concerns raised, and any corrective action needed to abide by the Plan of Compliance. Communication at the regularly scheduled meetings and the contact with the liaison shall be the sole methods of exchanging information and matters of concern relating to compliance with this Agreement.

70. **DRF's Access to Records.** Starting one hundred twenty (120) days after the Effective Date, except for documentation described in paragraph 70.D below, and continuing

every one hundred twenty (120) days thereafter until the termination of this Agreement (unless another time period is specified elsewhere in this Agreement), FDC will provide to DRF, at no cost to DRF and without a request from DRF, via email or some other electronic method, copies of the following records:

A. A report, in Excel format, listing every inmate who has been given an “impairment grade” for hearing, vision, or mobility, along with the code that has been assigned to that inmate. If FDC creates a new coding system that codes inmates as having a physical disability, FDC will also provide a report in Excel format that lists all such inmates.

B. A report, in Excel format, of all completed Reasonable Modification or Accommodation Request forms (currently FDC form DC2-530a and DC2-530b) containing the names and DC numbers of each inmate who submitted a request, a summary of the request, the institution the inmate was at when the request was submitted, the institution’s recommendation regarding the request, the action taken on the request, and the date of the decision.

C. A report, in Excel format, of all disability-related grievance appeals, currently labeled as “code 24,” containing the Grievance Appeal case numbers, inmate names and DC numbers, the institution the inmate was at when the Grievance Appeal was received, when it was responded to, when it was mailed, and the disposition.

D. Starting six (6) months after the Effective Date, documentation of sign language interpreter services, which provides the date, inmate name and DC number, and type of event, and whether the services were in-person or via a VRI service, when sign language interpreter services were provided to a D/HOH inmate.



E. All documentation showing the confiscation of any accommodation, aid, or service as referenced in paragraph 20 (Confiscation of Approved Accommodations).

Each production is an update to the prior production. In addition to these regular reports, DRF may request, in writing to the designated FDC liaison, the following additional records relating to hearing, vision, or mobility issues: medical, hospital, classification, and utilization management records; grievances (including appeals and responses); Reasonable Modification or Accommodation Requests; inspector general reports; and applications for the talking book program; of specific inmates DRF reasonably believes to be Covered Inmates. FDC will promptly acknowledge such requests and provide the requested records as soon as practicable after receiving a request. The attached Exhibit F is the Business Associate Agreement which authorizes FDC to disclose these records to DRF to the extent that they contain protected health information. The Parties will comply with the attached Exhibit F. Nothing in this paragraph prohibits DRF from conducting public records requests or other investigations to obtain information that may be related to this Agreement.

71. **Confidential Legal Visits and Telephone Calls with Inmates.** DRF or its representatives may conduct confidential legal visits or telephone calls with inmates DRF reasonably believes are Covered Inmates to ascertain compliance with this Agreement, as one part of DRF's monitoring of this Agreement. DRF will attempt to set up such visits and calls through normal channels, but should DRF experience any difficulties, DRF will notify FDC's counsel, who will attempt to intervene and assist with setting up the visit or call. Within five (5) days after such a confidential legal visit or telephone call, DRF will notify FDC's counsel and the FDC liaison about the name of the inmate(s) with whom DRF or its representatives communicated, the date of the visit or call, the amount of time spent on the visit or telephone

call, and the name of the DRF representative(s) who conducted the visit or telephone call, provided that the inmate agreed to speak with DRF or its representative. If the inmate declines to speak with DRF or its representative for any reason, DRF will not provide the name, DC number, date of the attempted interview, or interviewer's name to FDC.

72. **Compliance Visits.** DRF or its representative shall be permitted to conduct inspections of each facility listed on Exhibit A to ascertain compliance with this Agreement and identify any deficiencies. The inspections will be conducted under the terms and conditions described in Exhibit G. DRF or its representative will be permitted to inspect and test all new auxiliary aids and devices designated for Covered Inmates. The inspections will be conducted at some point between one (1) year after the Effective Date up until the termination of this Agreement. If problems are noted, inspections may be repeated with a focus on any problem areas. The inspections performed under this paragraph will be performed by persons who are not experts.

If during the inspection of a facility it is discovered that there are operational issues or deficiencies with the VRS or the VRI service, DRF may bring an expert knowledgeable in the technical aspects of VRS and VRI services inspect those devices within thirty (30) days. FDC will attempt to arrange to have a representative from its VRS and VRI provider present so that the nature of the technical issues can be identified and quickly resolved. FDC will exercise reasonable efforts to resolve any problems or deficiencies with VRS or VRI service as soon as practicable after these inspections.

## **IX. VIOLATION OF SETTLEMENT AGREEMENT**

73. **Procedures for Allegations of Significant Breach of this Agreement.** The Parties agree that this Agreement represents a written contract binding under state law and



enforceable as a contract in state court; however, the Parties have agreed that the sole remedy should a breach of contract action be filed would be specific performance. Before any alleged violation of this Agreement is brought in state court, the Parties shall attempt to resolve the problem among themselves as follows:

Any time after eighteen (18) months following the Effective Date, if DRF believes that FDC has significantly breached this Agreement, the following Notice and Cure Procedures apply:

A. **Notice of Significant Breach.** DRF shall provide a written Notice of Significant Breach to counsel for FDC alleging that FDC has significantly breached this Agreement and containing sufficient detail for FDC to understand the nature and scope of the significant breach, to investigate it, and to take necessary corrective action.

B. **Response to Notice of Significant Breach.** FDC shall promptly investigate and take corrective action to remedy the significant breach, and shall provide a written response to DRF as soon as practicable but not to exceed sixty (60) days after receiving the Notice of Significant Breach. FDC's written response shall contain an outline of the steps FDC took to investigate the problem, the results of the investigation and a specific corrective action plan for addressing the stated problem. If FDC's response includes a corrective action plan, FDC will provide to DRF a written update on the status of the results of the corrective action plan every thirty (30) days until either party deems the problem to be resolved or DRF seeks to enforce this Agreement. If no corrective action is anticipated, or if FDC denies a significant breach, FDC's response shall include the reason and any statutes, regulations or other bases upon which FDC is relying.

C. **Reply Regarding Significant Breach.** The purpose of the Notice and Response described in the two preceding paragraphs is to enable the Parties to work to avoid DRF taking further action to enforce this Agreement. To this end, DRF agrees to promptly advise FDC within fourteen (14) days of receipt of FDC's response whether DRF continues to assert that FDC has significantly breached this Agreement. Adherence to the notice and cure provisions described in paragraphs 73.A to 73.C shall be a condition precedent to further action to enforce this Agreement as described below.

74. **DRF's Remedy for FDC's Alleged Significant Breach.** If, after completing the Notice and Cure Procedures described in paragraphs 73.A to 73.C above, DRF, in its sole discretion, believes that FDC has still significantly breached this Agreement, DRF may file a breach of contract action in state court asserting a significant breach, in which event the sole remedy will be for specific performance. To the extent that DRF brings such a breach of contract seeking specific performance as the sole remedy, FDC will not assert sovereign immunity as a defense. FDC agrees to pay DRF's reasonable attorneys' fees and expenses if a state court finds FDC significantly breached this Agreement. If FDC takes an appeal and loses the appeal, FDC also agrees to pay DRF's reasonable attorneys' fees and expenses for the appeal. If DRF has not filed a breach of contract action, this Agreement will terminate on July 6, 2021. If a breach of contract action is pending as of July 6, 2021, the termination of the specific terms of the Agreement referenced in the breach of contract action shall be tolled.

75. **Effect of DRF's Inaction or Action With Respect To A Suit To Enforce.** Failure by the DRF to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of the DRF's right to enforce other deadlines and provisions of this Agreement provided DRF complies with the



Notice and Cure Provisions in paragraph 73 above. Moreover, if DRF seeks to enforce certain provisions in this Agreement by bringing a breach of contract action, and not seeking enforcement of other provisions at the same time, seeking enforcement of select provisions of this Agreement does not void the unchallenged terms of the Agreement and it remain in full force and effect throughout the entire term of this Agreement. Furthermore, DRF is not prohibited from bringing multiple breach of contract actions against the FDC should it be necessary.

#### **X. OTHER PROVISIONS**

76. **Authentication of Documents.** If DRF files a breach of contract action, the Parties agree that any documents or reports provided by either Party pursuant to this Agreement shall be deemed to be authenticated.

77. **Attorney's Fees and Costs.** Within thirty (30) days after the Effective Date, FDC shall pay to DRF the sum of two million U.S. dollars (\$ 2,000,000), in full payment of attorneys' fees and costs accrued through the Effective Date, via check made payable to Disability Rights Florida, Inc. This payment shall be nonrefundable. DRF hereby releases and discharges FDC of and from any claims or causes of action arising out of payment of attorneys' fees and costs accrued through the Effective Date.

78. **Modification of the Manner in Which FDC Provides Accommodations to Covered Inmates.** FDC specifically reserves the right to change, alter, amend, or rescind the manner in which it treats Covered Inmates, to the extent that such amendments, alterations, or changes are required by federal law in order to retain or obtain federal funding or to avoid federal sanctions. If DRF believes FDC has violated any constitutional, statutory, regulatory, or other legal provision in a manner that is not covered by this Agreement, DRF specifically



reserves the right to bring a separate action against the official capacity agency head of FDC for such alleged violation and FDC agrees to not raise the defense of collateral estoppel or res judicata in an action for prospective declaratory and injunctive relief.

79. **Modification of Agreement.** Should the Parties in the future jointly determine to modify any provision of this Agreement, any modifications must be reduced to writing and signed by both Parties. No modification shall take effect unless it is reduced to writing and signed by both Parties. These actions must receive the prior written approval of both Parties, which approval shall not be unreasonably withheld or delayed.

80. **Force Majeure Clause.** Should a war, riot, fire, flood, hurricane, typhoon, earthquake, lightning, explosion, strike, lockout, pandemic, or prolonged shortage of energy supplies substantially impede FDC in its compliance with any of the terms of this Agreement, or substantially impede FDC's timely compliance with any of the terms of this Agreement, the Parties agree that the failure to comply or comply timely shall be excused and shall not be considered a failure to meet the terms of the General Plan of Compliance. Should any of the events in this paragraph occur and substantially impede compliance, FDC shall make reasonable efforts to restore or alternatively achieve compliance as soon as it is possible to do so.

81. **Agreement Binding on Successors.** It is the intent of the Parties that this Agreement shall be binding upon the Parties, and their successors, assigns, employees, contractors and agents.

82. **Agreement Constitutes Entire Agreement.** This Agreement, including any attachments, constitutes the entire Agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Agreement, whether oral or written, regarding the subject covered in this Agreement. The

Parties acknowledge that no representations, inducements, promises, or statements related to this settlement or the subjects covered in this Agreement, oral or written, have been made by any of the Parties or by anyone acting on behalf of the Parties which are not embodied or incorporated by reference in this Agreement, and further agree that no other agreement, covenant, representation, inducement, promise, or statement relating to this settlement or the subjects covered in this Agreement not set forth in writing in this Agreement have been made by any Party.

83. **Effective Date of Agreement.** This Agreement shall become effective on the last date on which it is executed (the "Effective Date"). It may be executed by the Parties in multiple counterparts and shall constitute one final Agreement which shall be binding upon each party hereto, notwithstanding the fact that all of the signatures required to effectuate this Agreement do not appear on the same page. An electronic signature shall have the same force and effect as an original signature.

84. **Agreement Subject to Legislative Appropriations.** The Parties recognize that the Plan of Compliance includes plans for activities extending beyond the current fiscal year, and fiscal year 2017-2018. The Parties recognize that the continued implementation of the Plan of Compliance past July 1, 2018 is dependent upon legislative appropriation. FDC will exercise reasonable efforts to secure the legislative appropriations necessary to meet the terms of the Plan of Compliance. The inability to perform any act required under the Plan of Compliance due to non-appropriation of funds, so long as those funds are necessary to implement or support the Plan of Compliance, shall not be deemed to be a significant breach by FDC so long as FDC exercises reasonable efforts to secure the appropriations at issue. If FDC does not receive appropriations in subsequent years, DRF may file a separate lawsuit with respect to those issues

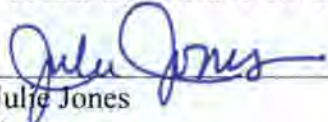
which it contends amount to systemic violations of federal law and the official capacity agency head of FDC will not raise the defense of collateral estoppel or res judicata in an action for prospective declaratory and injunctive relief.

85. **Release.** Contingent on FDC meeting its obligations under the General Plan of Compliance, DRF hereby releases and discharges FDC, including its successors and assigns, of and from any claims or causes of action arising out of the matters described in the Complaint (DE-1).

86. **Compliance with Section 45.062.** Each of the signatories to this Settlement Agreement on behalf of FDC represents that they will take all necessary steps to comply with the requirements of Florida Statute § 45.062 (2000).

IN WITNESS WHEREOF, the Parties to this Settlement Agreement have executed the same as of the 7 day of July, 2017.

FLORIDA DEPARTMENT OF CORRECTIONS

By:   
Julie Jones  
Secretary  
Defendant

By:   
Albert J. Bowden, Esq.


Albert J. Bowden  
Special Counsel  
Florida Bar No.: 0802190  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399-1050  
(850) 414-3300  
(850)488-4872 (Fax)  
al.bowden@myfloridalegal.com



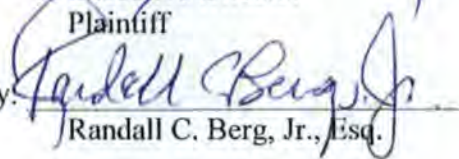
Attorney for Defendant

DISABILITY RIGHTS FLORIDA, INC.

By:

  
Maryellen McDonald  
Executive Director  
Plaintiff

By:

  
Randall C. Berg, Jr., Esq.

Randall C. Berg, Jr., Esq.  
Fla. Bar No. 318371  
[RBerg@FloridaJusticeInstitute.org](mailto:RBerg@FloridaJusticeInstitute.org)  
Dante P. Trevisani, Esq.  
Fla. Bar No. 72912  
[DTrevisani@FloridaJusticeInstitute.org](mailto:DTrevisani@FloridaJusticeInstitute.org)  
Erica A. Selig, Esq.  
Fla. Bar No. 0120581  
[ESelig@FloridaJusticeInstitute.org](mailto:ESelig@FloridaJusticeInstitute.org)

FLORIDA JUSTICE INSTITUTE, INC.  
3750 Miami Tower  
100 S.E. Second Street  
Miami, Florida 33131-2309  
305.358.2081  
305.358.0910 (Fax)

Molly Paris, Esq.  
Fla. Bar. No. 90486  
[Mollyp@disabilityrightsflorida.org](mailto:Mollyp@disabilityrightsflorida.org)  
David Boyer, Esq.  
Fla. Bar No. 90917  
[Davidb@disabilityrightsflorida.org](mailto:Davidb@disabilityrightsflorida.org)

DISABILITY RIGHTS FLORIDA, INC.  
1930 Harrison St., Ste. 104  
Hollywood, FL 33020-7850  
850.488.9071  
850.488.8640 (Fax)

Sharon Caserta, Esq.  
Fla. Bar No. 0023117

*scaserta@forthepeople.com*

MORGAN AND MORGAN, P.A.  
Deaf/Disability Rights Unit  
76 South Laura Street, Suite 1100  
Jacksonville, Florida 32202  
904.361.0078  
904.245.1121 (Videophone)  
904.361.4305 (Fax)

Attorneys for the Plaintiff



# **EXHIBIT 26**

IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT IN AND  
FOR LEON, FLORIDA

DISABILITY RIGHTS FLORIDA, INC., CASE NO.: 2019-CA-2825

Plaintiff,

v.

FLORIDA DEPARTMENT OF  
CORRECTIONS, an agency of the State  
of Florida,

Defendant.

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### **SETTLEMENT AGREEMENT**

The Plaintiff, DISABILITY RIGHTS FLORIDA, INC., (“DRF”) and the Defendant, the FLORIDA DEPARTMENT OF CORRECTIONS, (“FDC”) (collectively the “Parties”), have entered into this Settlement Agreement (“Agreement”) as a plan for settling this litigation. Both Parties agree to comply with the following terms. As set forth below, this Agreement is a contract enforceable in state court should the FDC significantly breach this Agreement. That this Agreement is not a Consent Decree is a key factor in FDC’s willingness to enter into this Agreement.

#### **I. BACKGROUND**

DRF initiated this action by filing a Complaint on December 4, 2019. A Second Amended Complaint was filed on July 27, 2021. In the Second Amended Complaint, DRF alleges that FDC has breached a settlement agreement entered into by the parties on July 7, 2017. FDC responded to DRF’s allegations by denying all liability. This Agreement is the product of multiple settlement

conferences, and the Parties believe that this Agreement represents a fair settlement of DRF's claims.

## II. DEFINITIONS

1. **Accommodation.** For purposes of the Agreement, an "accommodation" means an aid, device, modification, or service that is not assigned by the Office of Health Services (OHS) through an individualized clinical assessment, and therefore can be assigned by the ADA Team.

2. **Approved Accommodation.** For purposes of the Agreement, "approved accommodation" means a reasonable accommodation, aid, device, modification, or service approved by the ADA Team.

3. **Approved Medical Device.** For purposes of the Agreement, "approved medical device" means a clinically indicated aid, device, modification, or service approved by OHS after an individualized assessment.

4. **ADA Coordinator.** For purposes of the Agreement, "ADA Coordinator" means the central office employee assigned to coordinate FDC's efforts to comply with and carry out its responsibilities under the provisions of Title II and Title III of the ADA and Section 504 of the Rehabilitation Act of 1973

5. **ADA Team.** For purposes of the Agreement, "ADA Team" means the ADA Coordinator, his or her staff members, and the institutional staff members designated to address ADA issues.

6. **Captioned Telephones.** Abbreviated herein as "CapTels." This means captioned telephones or successor technology.

7. **Classification Grade.** For purposes of the Agreement, "classification grade" means the impairment or disability classification grades assigned by OHS.

8. **Clinically Indicated.** For purposes of the Agreement, “clinically indicated,” as it relates to the assignment of medical devices, will be based on a determination by OHS, taking into consideration the inmate’s stated preferences, the results of an individualized assessment, the opinion of any outside specialist, and any medical devices used by the inmate prior to incarceration or previously approved by OHS.

9. **Compelling Security Concern.** For purposes of this Agreement, a “compelling security concern,” as it relates to an approved accommodation or approved medical device that has been provided or may be provided to a Covered Inmate, exists if the approved accommodation or approved medical device cannot be adequately searched by FDC for contraband, is contraband, has been used as a weapon, can be weaponized to harm the Covered Inmate or others, or can be used to facilitate an escape. Documentation of the compelling security concern shall be maintained.

10. **Complaint Procedures.** For purposes of this Agreement, “Complaint Procedures” means FDC’s established channels for resolution of inmate complaints, as may be amended from time to time, and includes the quarterly disabled inmate meetings, sick-call, medical encounters, reasonable modification or accommodation requests, grievances, and appeals of grievances. All inmates, regardless of impairment classification, will remain free to utilize the Complaint Procedures to assert that they have been improperly denied access to an accommodation, medical device, or program.

11. **Confiscation.** For purposes of this Agreement, a “confiscation” occurs when FDC removes a Covered Inmate’s approved accommodation or approved medical device because of a compelling security concern. The term “confiscation” does not include OHS’s discontinuation of approved medical devices that occurs pursuant to a health determination.



12. **Covered Inmates.** For purposes of this Agreement, Covered Inmates means any Deaf/Hard of Hearing (D/HOH) inmate, Inmate with Vision Disabilities (IVD), or Inmate with Mobility Disabilities (IMD).

13. **Days.** Unless otherwise specified, references to “days” will be to calendar days. If the last day of the specified period falls on a weekend or holiday, the due date will be the next business day.

14. **Deaf/Hard of Hearing Inmates.** Abbreviated herein as “D/HOH inmate.” This means an FDC inmate with a disability that substantially limits the inmate’s hearing, as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102.

15. **Designated FDC Liaison.** For purposes of this Agreement, the “designated FDC Liaison” means the individual FDC identifies to DRF, in writing, as the point of contact for all matters related to or arising out of this Agreement.

16. **Effective Date.** For purposes of this Agreement, “Effective Date” means the latest date on the signature page of this Agreement.

17. **Inmate Assistant.** Abbreviated herein as “IA.” This means appropriately trained inmates that may be assigned to Covered Inmates, either as part of a pool of IAs or an individual assignment.

18. **Inmate Meeting.** For purposes of this Agreement, “Inmate Meeting” means the meetings between DRF and FDC described in paragraph 73.

19. **Inmates with Mobility Disabilities.** Abbreviated herein as “IMD.” This means an FDC inmate with a disability that affects the inmate’s ability to move, which substantially limits the inmate’s major life activities of walking, standing, bending, performing manual tasks, lifting,



reaching, or sitting, as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102 and 28 C.F.R. § 35.108.

20. **Inmates with Vision Disabilities.** Abbreviated herein as “IVD.” This means an FDC inmate with a disability that substantially limits the inmate’s seeing, as defined in the Americans with Disabilities Act, 42 U.S.C. § 12102.

21. **Hadley Institute for the Blind and Visually Impaired.** Abbreviated herein as “Hadley.” This means the Hadley Institute for the Blind and Visually Impaired.

22. **Health Determination.** For purposes of this Agreement, a “health determination” exists when, after an individualized assessment of an inmate, OHS makes a determination based on professional medical judgment, the inmate’s medical history, medical needs, current diagnoses and passes, whether a device was previously approved by OHS, and the inmate’s stated preferences, that a medical device is or is not clinically indicated.

23. **Medical Device.** For purposes of this Agreement, a “medical device” means a device that can be assigned by OHS as a result of an individualized clinical assessment.

24. **Office of Health Services.** Abbreviated herein as “OHS.” This means the division responsible for overseeing the delivery of FDC’s health care services, and, at the institutional level, this means FDC’s contracted health services provider(s).

25. **Pass.** For purposes of this Agreement, “pass” means a written authorization or badge for an approved accommodation or approved medical device.

26. **Progress Meeting.** For purposes of this Agreement, “Progress Meeting” means the quarterly meetings between DRF and FDC, described in paragraph 72.

27. **Qualified Inmate with a Disability.** For purposes of this Agreement, a “Qualified Inmate with a Disability” refers to a Covered Inmate who, with or without reasonable

modifications to rules, policies, or practices, the removal or architectural, communication, or transportation barriers, or the provision of an accommodation or medical device, meets the essential eligibility requirements of the department for the department program(s), service(s), or activity/activities at issue.

28. **Qualified Interpreter.** For purposes of this Agreement, a “qualified interpreter” means a sign language interpreter who, via a video remote interpreting service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, see 28 C.F.R. § 35.104. For the purpose of this Agreement, a Certified Deaf Interpreter is also considered a qualified interpreter. Preference will be given to interpreters who hold a valid certification from the National Registry of Interpreters for the Deaf. FDC will exercise reasonable efforts to utilize interpreters who hold a valid certification from the National Registry of Interpreters for the Deaf in hiring or contracting with interpreters.

29. **Reasonable Modification or Accommodation Request.** Abbreviated herein as “RMAR.” This means a request, in writing, submitted by an inmate who is seeking an accommodation, specifying the type of accommodation requested and the purpose for the accommodation. Inmates who cannot put their requests in writing will make their verbal or sign language requests to classification, security, or to the ADA Team, who will document the request in writing.

30. **Special Housing.** For purposes of this Agreement, “special housing” means administrative confinement, disciplinary confinement, protective management, or close management.

31. **Talking Book Program.** For purposes of this Agreement, “Talking Book Program” means the Florida Division of Blind Services’ Talking Book Program.

32. **Teletypewriters.** Abbreviated herein as “TTYs.” This means a device that allows D/HOH Inmates, or those with speech impairments, to use a telephone to type messages, to include a successor technology.

33. **TIPS Line.** For purposes of this Agreement, “TIPS line” means FDC’s Prison TIPS program, which is used for the collection of intelligence on criminal activity inside and outside of the Florida prison system. As part of the TIPS program, callers are not required to identify themselves and caller identity is maintained as confidential.

34. **Video Remote Interpreting.** Abbreviated herein as “VRI.” This means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering a high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in 28 C.F.R. § 35.160(d).

35. **Video Enabled Devices.** This means a device that can be used to make a) point to point video calls, and b) calls through the Video Relay Service.

### III. COMPLIANCE REQUIREMENTS

36. **Initial Identification of Disabilities and Accommodations and Medical Devices at Reception.** At Reception, FDC will make reasonable efforts to identify whether an inmate has a hearing, vision, or mobility disability and will assign a classification grade, if appropriate.

A. The initial determination of whether an inmate is a “Covered Inmate” will be made by OHS, either at reception or at the institution where the inmate is assigned, based upon the inmate’s record of an existing physical disability or individualized assessment and clinical evaluation of the inmate.



B. If it is determined that the inmate is a Covered Inmate, FDC will determine the extent of the disability. Results of this assessment will be documented and placed in the Covered Inmate's medical record, documented in FDC's electronic system (currently called "Offender Based Information System" or "OBIS"), and will be made available as needed, to FDC staff responsible for the inmate's medical care, programs, or custody and supervision at both Reception and the permanent prison.

C. FDC will conduct an individualized assessment of the need for accommodations and approved medical devices required by the Covered Inmate. This includes a determination by OHS as to which medical devices are clinically indicated and a determination by the ADA Team as to which accommodations are approved.

D. For D/HOH inmates, FDC will evaluate the verbal and written communication skills, reading level, and, where appropriate, the inmate's proficiency in sign language (including American Sign Language) or lip-reading/speech-reading by an appropriate professional. The sign language evaluation must be completed by a qualified interpreter.

E. For IVDs, FDC will evaluate the visual acuity of an inmate to ascertain their ability to access print, video, audio, and other materials to determine the format needed to provide access to such materials.

37. **"P1" and "P2" Inmates.** FDC will amend HSB 15.03.13 ("Assignment of Health Classification Grades to Inmates") to specify that the "P2" classification grade means an inmate with a short-term physical impairment not to exceed one year or an inmate with significant permanent ambulatory instability that does not rise to the level of a PD3. Inmates classified as "P2" will be evaluated annually to determine the appropriateness of the classification grade. Inmates classified as "P1" or "P2" will not presumptively be entitled to being located at an Exhibit

A facility/dormitory/wing, but, if any such inmate submits an RMAR seeking to be located at an Exhibit A facility/dormitory/wing, the request will not be denied solely on the basis of the inmate's classification grade. Moreover, inmates classified as "P1" or "P2" will not be presumptively denied an accommodation or medical device request based solely on their grade; any such inmates will be afforded an individualized evaluation to determine the need for an accommodation regardless of their classification grade.

38. **Changes In Classification Grade.** If a Covered Inmate's classification grade is downgraded, FDC will document in the Covered Inmate's medical record the reason for the downgrade. The documentation will be available to DRF upon request.

A. For D/HOH inmates, in conjunction with its new health services contract, anticipated to begin in July 2023, FDC will require its vendor to provide the following: if after undergoing the on-line hearing test a D/HOH inmate's hearing loss is downgraded to reflect less hearing loss, resulting in the change of classification grade, the inmate will undergo audiological testing by an onsite audiologist. Before July 2023, FDC will make reasonable efforts to do this.

39. **Location of Covered Inmates.** FDC will locate Covered Inmates classified as PD3, HD3, HD4, HD5, ED3, ED4, and ED5 in the facilities/dormitories/wings listed in Exhibit A. FDC will not transfer a Covered Inmate classified as PD3, HD3, HD4, HD5, ED3, ED4, and ED5 to a facility that is not listed on Exhibit A unless the inmate requests a transfer. If a Covered Inmate submits an RMAR to request a transfer to a facility that is not listed on Exhibit A, FDC will provide the name and DC number of that inmate to DRF as soon possible but no later than the next scheduled Progress Meeting. D/HOH inmates and IVD inmates will not be denied placement at a facility or dorm listed on Exhibit A that is otherwise accessible to them solely because the long-term architectural modifications have not been completed at that facility or dorm. The services



contemplated in this Agreement for the Covered Inmates will be provided at the facilities listed in Exhibit A. FDC has the discretion to revise Exhibit A; however, it must maintain approximately the same percentage of facilities/dormitories/wings as ADA accessible, keeping the same or similar variation in geography, mission, and work/educational/vocational opportunities, as presently exists with respect to the facilities/dormitories/wings listed in the initial version of Exhibit A associated with this Agreement. Prior to revising Exhibit A, FDC will provide DRF with a draft revision. DRF will have 30 days to provide comments on the proposed revision.

40. **Clustering.** FDC will make reasonable efforts to avoid “clustering” Covered Inmates at certain institutions, and to ensure that Covered Inmates can be housed at any facility/dormitory/wing listed on Exhibit A. Aside from the restrictions listed on Exhibit A, FDC will not further limit where Covered Inmates may be housed on the basis of their disability.

41. **Transfers.** FDC will make reasonable efforts to ensure that, during transfers or temporary housing assignments, Covered Inmates are housed in facilities/dormitories/wings that can accommodate their disabilities.

42. **Procedure for Requests for Accommodations.** If a Covered Inmate submits an RMAR, FDC will consider the request in good faith, interview the inmate if necessary, and refer the inmate to OHS or classification as needed. If a Covered Inmate submits an RMAR or grievance that requires an appointment with OHS and/or classification, FDC will forward the request to the appropriate department with instructions to follow up with the Covered Inmate.

43. **Use of Classification Grades.** Subject to paragraph 39 (Location of Covered Inmates), FDC will not deny access to accommodations, programs, or medical devices solely because of the inmate’s classification grade (or lack thereof).

44. **Periodic Re-assessments of Covered Inmates.** At least once per year, FDC will conduct periodic re-assessments of Covered Inmates to determine whether any changes in accommodations are necessary. These re-assessments will include, but not be limited to determining whether the Covered Inmate is receiving effective accommodations for his or her disability, whether the Covered Inmate should be approved for any other accommodations, and whether an appointment with OHS is necessary for the assessment of clinically indicated medical devices. Any such re-assessment will be documented in the inmate's medical file and available to DRF upon request.

45. **Other Requests for Accommodation or Medical Devices.** If a Covered Inmate requests an accommodation or medical device that is not covered elsewhere in this Agreement, FDC will provide the accommodation or medical device to the Covered Inmate unless: (1) FDC has a documented compelling security concern, (2) the inmate already has an effective accommodation or medical device, (3) the accommodation or medical device would cause an undue financial or administrative burden to FDC, (4) another reasonable and effective accommodation or medical device is available, (5) the medical device is not clinically indicated; or (6) the accommodation or medical device would constitute a fundamental alteration of an identifiable FDC program, service, or activity. The reasons for the denial must be documented in writing in the Covered Inmate's record.

46. **Passes.** FDC will issue passes to Covered Inmates to implement any approved accommodations or approved medical devices. Passes for inmates with permanent disabilities (inmates classified as PD3, ED3, ED4, ED5, HD3, HD4, HD5) and/or inmates with significant permanent ambulatory instability that are classified as P2, will be issued permanently, absent a documented compelling security concern or documented health determination that would render a



permanent pass not clinically indicated. A Covered Inmate will not lose his or her passes, approved accommodations, or approved medical devices solely because of transfer to another facility. Covered Inmates will be allowed to keep their approved accommodations or approved medical devices in special housing, absent a documented compelling security concern.

47. **No Co-Pay or Charge for Approved Accommodations or Approved Medical Devices.** If FDC refers an inmate to OHS to assess the need for an accommodation or medical device, no medical co-pay will be charged to the inmate. No charges will be assessed to an inmate for approved accommodations or approved medical devices, including batteries necessary to use an approved accommodation or approved medical device.

48. **Confiscation of Approved Accommodations and Approved Medical Devices.** FDC will not confiscate a Covered Inmate's approved accommodation unless there is a compelling security concern. All confiscations of Covered Inmates' approved accommodations must be approved by the institutional warden who will, in conjunction with the confiscation, confer with a member of the ADA Team and the Chief Health Officer of the institution. If an approved accommodation is confiscated, a Covered Inmate will be required to submit an RMAR or grievance to request a new accommodation. All confiscations will be documented and such documentation provided to DRF upon request.

A. If an approved medical device is confiscated for a compelling security concern, the confiscation must be approved by the institutional warden who will, in conjunction with the confiscation, confer with a member of the ADA Team and the Chief Health Officer of the institution. If an approved medical device is confiscated for a compelling security concern, a Covered Inmate can submit a request for sick call to request a new medical device.

B. If FDC determines that any accommodation or medical device listed in the Agreement poses a compelling security concern in all situations, and decides to categorically deny access to the accommodation or medical device, FDC will communicate this to DRF within 30 days of making such a determination, and shall work with DRF to determine an appropriate alternative accommodations or medical devices. The Parties will then make efforts to amend this Agreement accordingly. If the Parties cannot agree to an appropriate alternative accommodation or medical device, FDC will have the final authority to select an appropriate alternative accommodation or medical device. If FDC unreasonably refuses to consider DRF's recommended appropriate alternative accommodation or medical device, it shall be a breach of this Agreement.

49. **Discontinuance of Approved Medical Devices.** If OHS determines that a Covered Inmate's approved medical device is no longer clinically indicated, OHS will provide a detailed explanation for the discontinuance in the inmate's medical record, unless the approved medical device was provided on a temporary basis due to an acute injury or trauma or as a post-operative measure. Devices provided on a temporary basis will be provided to inmates as long as clinically indicated. FDC will advise OHS to consider the age of the inmate in determining the length of time the provision of a medical assistive device may be clinically indicated. The documentation will be available to DRF upon request. OHS will not discontinue an approved medical device without seeing the inmate in a medical encounter or sick call.

A. Approved mobility medical devices, such as wheelchairs, canes, crutches, walkers, and prosthetics will not be discontinued unless it was issued to assist with a temporary impairment of a major life activity (e.g. cane or crutches for a broken leg), if the impairment the medical device was issued to assist no longer exists and cannot be reasonably expected to return (e.g. physical therapy makes use of a cane no longer needed in the future), or there is a documented compelling

security concern or documented health determination that would render a permanent pass not clinically indicated.

50. **Work/Educational/Vocational Programming.** The work/educational/vocational programming available for Qualified Inmates with a Disability is listed in Exhibit B. FDC has the discretion to revise Exhibit B; however, it must make reasonable efforts to maintain approximately the same variation in work positions, vocational opportunities, and educational opportunities as reflected in the initial version of Exhibit B associated with this Agreement. FDC will notify DRF at the earliest possible Progress Meeting if Exhibit B is modified. It is not a breach of this Agreement if FDC discontinues a work/vocational/educational program if the discontinuance applies to both Covered and non-Covered Inmates equally.

A. FDC will not deny a Qualified Inmate with a Disability access to any work, vocational, or educational programming listed in Exhibit B on the basis of that inmate's disability.

B. If a Qualified Inmate with a Disability applies for a work position, a vocational opportunity, or an educational opportunity listed in Exhibit B, and that inmate meets the skill, experience, and education requirements, medical restrictions not related to the Covered Inmate's disability, custody level, criminal history and time remaining on sentence requirements, FDC will not deny that individual the position or opportunity without documentation by a member of the ADA Team. A member of the ADA Team will document whether (1) FDC cannot make reasonable modifications in policies, practices or procedures to permit the inmate to meet the essential functions of the position or opportunity, and/or (2) the modifications fundamentally alter the nature of the program, service or activity.



C. Enrollment in courses offered by Hadley will not serve as the basis for denying an IVD inmate access to work, vocational, or educational programming that would otherwise be available to a Qualified Inmate with a Disability.

D. Within six months of the Effective Date, and every six months thereafter, FDC will conduct an audit of the Covered Inmates that are designated as ineligible for transfer to a work camp and will provide the results of the audit to DRF within thirty (30) days of completing the audit.

E. Within six months of the Effective Date, FDC will conduct an audit of any Covered Inmates who submits an RMAR or grievance asserting that he or she is a Qualified Inmate with a Disability who was denied access to a work, vocational, or educational programming opportunity, and will provide the results of the audit to DRF within thirty (30) days of completing the audit.

F. FDC will open a work camp in Region 4 accessible to Covered Inmates if and when it is reasonably possible to do so.

G. FDC will open or maintain incentivized dorms for both male and female Covered Inmates if and when it is reasonably possible to do so. If any incentivized dorms are available for inmates, then FDC will ensure that at least one is accessible for male Covered Inmates and one is accessible for female Covered Inmates. In addition, the incentivized program at Everglades CI will be made accessible to Covered Inmates.

H. FDC will establish agreed-upon programs (including a veterans' program and a PRIDE program) at certain agreed-upon ADA facilities. The Parties shall agree to the programs on or before November 29th, 2021, which will be memorialized as Exhibit "B." This paragraph shall not be construed as limiting the type of programs that can be made available by FDC to Covered Inmates.

51. **Inmate Assistants.** FDC will create and use reasonable efforts to maintain a pool of trained IAs at each facility listed on Exhibit A (“IA Pool”). “Reasonable efforts” for purposes of this section will include at a minimum implementing a centralized tracking system to monitor training, assignment, and retention of IAs, and engaging in reasonable recruiting efforts. FDC has discretion to not use the pool system at institutions with a small number of Covered Inmates who can be assigned individual IAs.

A. IVDs and IMDs will have access to the IA Pool or an individually-assigned IA, if clinically indicated. A request for an IA from an inmate classified as P1 or P2 will not be denied based solely on the inmate’s classification grade. If an inmate requests a specific IA, FDC will give strong consideration to that request.

B. FDC will ensure there is a system in place to address the needs of Covered Inmates who have an approved IA while in special housing.

C. Natural Supports. A Covered Inmate shall not be punished on the sole basis that he or she asked another inmate for help due to his or her disability, or accepted such help, and an inmate shall not be punished on the sole basis that he or she provided such help.

52. **IA Training and Monitoring.** FDC will make reasonable efforts to ensure each IA has the ability to perform his or her assigned duties. IAs will receive initial training as to their assigned duties, which will be designed to educate IAs to (A) a Covered Inmate’s needs, (B) the use and evaluation of impaired inmate assistants, (C) general information as to how to effectively work with Covered Inmates, (D) functional implications of being deaf/hard of hearing, blind/visually impaired, or having a mobility disability; and (E) common misunderstandings about an individual’s remaining sight, hearing, and mobility.

A. Training for IAs that assist IVD inmates will also include topics such as guiding, assisting with talking watches, assistance in recreational activities, reading aloud, assistance at meals, traveling stairs, and maintaining confidentiality of information.

B. Training for IAs that assist with IMDs will also include topics such as safely pushing a wheelchair, helping someone to transfer to another seat, and assistance with daily life activities.

C. FDC will periodically evaluate IAs for fulfillment of assigned duties and performance criteria, and FDC will consider any information provided by the Covered Inmate as part of the evaluation.

D. FDC will continue to investigate options to incentivize inmates to serve as IAs and make reasonable efforts to implement them.

53. **Health, Safety, & Welfare.** FDC reserves the right to temporarily suspend a Covered Inmate's access to any approved accommodation or approved medical device to protect the health, safety, and welfare of inmates or staff.

#### **Deaf or Hard of Hearing Inmates**

54. **Video Enabled Devices.** FDC will install and maintain video enabled devices as indicated on Exhibit A, including in classification for confidential calls, by June 30, 2022. FDC will investigate all reasonable options, including using tablets and placing calls through classification using the legal calls procedure, to provide access to the TIPS line through a video enabled device. FDC will provide DRF quarterly video enabled device testing reports of a representative sample of devices, commencing with a report for third-quarter 2022.

55. **Captioned Telephones.** FDC will provide CapTels for Covered Inmates who can speak but cannot hear on the telephone. FDC shall conduct a pilot program for the CapTels



beginning on or before December 1, 2021 (the "Pilot Program"). Following the Pilot Program, by June 1, 2022, FDC and DRF will agree on a list of institutions specified on the attached Exhibit A where captioned telephones must be installed. FDC will install and maintain captioned telephones at half of the agreed-upon facilities by December 31, 2022, and the other half by June 30, 2023. FDC will investigate all reasonable options and work with its vendor to provide CapTel access to the TIPS line. FDC will provide DRF quarterly CapTel testing reports of a representative sample of at least 25% of the devices, commencing in third-quarter 2023.

56. **Teletypewriters.** FDC will install and maintain TTYs as indicated on Exhibit A. Following the Pilot Program, FDC and DRF will agree on a list of institutions specified on Exhibit A where TTYs must be installed and/or maintained. FDC will provide DRF quarterly TTY testing reports of a representative sample of at least 25% of the devices, commencing with a report for second quarter 2022. Following the transition to CapTels, FDC will provide DRF annual TTY testing reports, for any TTY that remains in use. D/HOH inmates shall be permitted the lesser of two times the normal time or an hour to use the TTY. The FDC shall ensure that staff is trained on how to operate the TTYs. Broken TTYs will be repaired or replaced within thirty (30) days. The TTY paper will be replaced when necessary. While the TTY is unavailable due to needed repairs, FDC will ensure that the inmate has access to another TTY or CapTel. The FDC shall ensure that D/HOH inmates have access to the TIPS line using a TTY. For legal calls, a TTY, for which a printout will not be maintained, will be available in another location on the compound which permits privacy.

57. **Visual Alert Systems/Light Boards.** The FDC will install light boards or other visual alert systems at the facilities and dormitories as specified in Exhibit A by December 31,

2022. FDC will provide DRF quarterly testing reports of the lightboards, commencing with a report for second quarter 2022.

58. **Qualified Interpreters: American Sign Language, Oral Interpreters and Translitterators.** FDC will make reasonable efforts to maintain a minimum of five qualified, on-site, staff interpreters. "Reasonable efforts" for purposes of this section will include, at a minimum, regularly advertising, via the MyFlorida Jobs webpage and professional interpreter publications, any vacant positions and setting the current salary for the FDC interpreter position at \$55,000-\$60,000 per year, exclusive of benefits. The salary can be increased if it is determined to be needed by the FDC.

A. In conjunction with its new health services contract, anticipated to begin in July 2023, FDC will require its vendor to hire at least one qualified on site staff interpreter for medical evaluations and treatment to be located in Region 2. In the interim, OHS will significantly increase its monitoring of its current contract with its current health services vendor to ensure that, prior to the roll out of the new contract, the current health services vendor is fulfilling its obligation to ensure in-person or video remote interpreting services are available as needed for medical appointments.

59. **Access to Qualified Interpreters: American Sign Language, Oral Interpreters or Translitterators.** FDC will make available, at the designated facilities on Exhibit A, a qualified interpreter to any D/HOH inmate whose effective means of communication is sign language or speech-reading/lip-reading in the following situations: (A) medical, dental, and mental health appointments; (B) meetings with classification officers; (C) education programs; (D) substance abuse programs; (E) intake and orientation; (F) disciplinary hearings; (G) work and job training,



including at PRIDE; (H) religious services; (I) any training for matters that are outside the routine day-to-day schedule; (J) PREA training; and (K) any pre-release and re-entry instructions.

A. FDC will designate a Lead Interpreter to create a mechanism for statewide interpreting requests, who will oversee the system to provide coverage of interpreting assignments.

B. FDC will identify current and new D/HOH inmates who need an oral interpreter or oral transliterators and make available interpreters for those inmates.

C. The phrase “make available” includes making a qualified interpreter available by VRI, or by an on-site appearance. VRI will not be utilized if:

- i. A qualified interpreter is available to provide onsite interpretation;
- ii. The event at issue is long or complex;
- iii. The individual has a secondary disability (such as low vision or physical mobility) that may impede the ability of the inmate to fully access the communications; or
- iv. The individual has cognitive, psychiatric, or linguistic difficulties which impede effective communication through VRI.

D. To the extent that FDC provides qualified interpreters via VRI services, FDC will provide as required in 28 C.F.R. §35.160 (d):

- i. Real-time, full-motion video and audio over a dedicated high-speed, wideband width video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
- ii. A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position;
- iii. A clear, audible transmission of voices;
- iv. Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI; and

- v. Use of the VRI equipment in a location which safeguards the inmate's privacy, to the same extent as any non-disabled inmate's privacy is protected.

60. **Other Accommodations and Medical Devices.** FDC will continue to provide D/HOH inmates other approved accommodations and approved medical devices including modified use of handcuffs to ensure D/HOH inmates whose effective means of communication is sign language can have use of their hands, provision of hearing aids, hearing aid batteries, and hearing aid repair free of charge, vibrating watches, open or closed captioning, and FM transmitters and receivers, absent documented compelling security concerns. Except when an inmate is being transported, FDC shall, as a reasonable accommodation, handcuff in the front D/HOH inmates whose effective means of communication is by sign language or writing, and shall only handcuff those inmates behind the back when there is a compelling security reason to do so. During disciplinary hearings, FDC will ensure that a D/HOH inmate whose effective means of communication is by sign language or writing, shall have sufficient freedom of movement for their hands. This paragraph shall not be construed as limiting the type of accommodations or medical devices that can be provided by FDC.

#### **Inmates with Vision Disabilities**

61. **White Canes.** FDC will offer white canes as an available medical device for those IVD inmates who are totally or legally blind, or those who have low vision with the inability to refract adequately and have difficulty safely and independently moving on, and negotiating, steps, curbs, terrain, and facilities. White cane passes will be issued permanently. Covered Inmates in special housing will be entitled to keep their white canes, absent a documented compelling security concern or documented health determination.

A. The length of the white cane will be based on an individual's height, and generally should stand at least at shoulder height, but the preference of the inmate will be considered.

B. FDC will make reasonable efforts to replace white canes within one week. FDC will provide an alternative approved medical device or accommodations in the interim.

C. If an inmate files an RMAR for a white cane, it will be forwarded to OHS with instructions for OHS to conduct an in-person evaluation of the inmate and to issue the white cane if the inmate is totally or legally blind, or has low vision with the inability to refract adequately and has difficulty safely and independently moving on, and negotiating, steps, curbs, terrain, and facilities, or is otherwise clinically indicated.

D. Within six months of the Effective Date, FDC will conduct an audit of current E3s, E4s, and E5s to ensure those inmates have been issued white canes if clinically indicated and that the inmate's white cane is at least at shoulder height, by scheduling individual medical evaluations for all E3s, E4s, and E5s, and providing documentation of the evaluations to DRF.

E. There will be a presumption that white canes will not be taken away in confinement unless there is a documented compelling security concern.

62. **Talking Book Program.** The Talking Book Program will be an available accommodation to IVDs. FDC will assist IVDs with registering for the Talking Book Program, selecting Talking Book Program resources, and sending and receiving Talking Book Program resources. An IVD's access to resources with regard to the number of resources that can be taken out at one time, the use of the Talking Book players, etc. will be in accordance with the policies of the Talking Book Program.



A. FDC will revise its policy to be consistent with the federal regulations and clarify that access to the Talking Book Program will not be denied solely based on the inmate's classification grade.

B. Inmates that have been denied access to the Talking Book Program or were suspended from the Talking Book Program may submit a RMAR to be admitted or reinstated into the Talking Book Program, and DRF may submit a list of inmates requesting admission or reinstatement. FDC will review any such requests received and will not deny admission or reinstatement to any inmate solely on the basis of his or her classification grade.

63. **Correspondence Courses from Hadley.** Hadley will be an available accommodation to IVDs. FDC will assist IVDs with registering for the Hadley courses, selecting Hadley courses, and sending and receiving Hadley resources. An IVD's access to Hadley resources will be in accordance with the policies of Hadley.

64. **Other Accommodations and Medical Devices.** FDC will continue to provide IVDs other approved accommodations and approved medical devices including talking watches, magnifying glasses, magnifying sheets, font enlargement and screen magnifiers on computers in library, text-to-speech software (JAWS) and training on the use of the software in the law library, additional time to work with assistants (IAs, library clerks, or law clerks) in the law library, large-font call out lists, FM transmitters and receivers, CCTV video magnifiers, recorders/players, key locks, dedicated charging stations for electronic accommodation devices, housing IVDs with reasonable access to IAs, and accommodations and medical devices to access to grievance, RMAR, and DR systems, absent documented compelling security concerns. When IVDs are housed in open bay dorms, they shall receive appropriate accommodation for access to the bathroom, which can include orientation to the dorm, a clear path to the bathroom, and, if

practicable, a bed close to the bathroom. IVD inmates will not be housed on the second floor of dormitories, except for compelling reasons on a temporary basis, or in the event of an emergency. This paragraph shall not be construed as limiting the type of accommodations or medical devices that can be provided by FDC.

**Inmates With Mobility Disabilities**

65. **Wheelchairs.** FDC will provide wheelchairs to IMDs if a wheelchair is clinically indicated. FDC will utilize an appropriate professional to determine the size and type of wheelchair. An IMD who has been provided a wheelchair as an approved medical device may keep the wheelchair he or she had when he or she entered prison, absent a documented compelling security concern or documented health determination. If that occurs, FDC will provide an alternative medical device if one can be provided without similarly implicating compelling security concerns or health determination. A wheelchair pass will be issued permanently to IMDs and inmates with permanent ambulatory instability that are classified as P2, absent a documented compelling security concern or documented health determination that would render a permanent pass not clinically indicated.

66. **Wheelchair Repair or Replacement.** FDC will conduct quarterly inspections of wheelchairs assigned to IMDs and inmates with permanent ambulatory instability that are classified as P2, to determine whether the wheelchair is in need of repair or maintenance. Additionally, these inmates may apply to sick call to have their wheelchair repaired or replaced. If repair or replacement is needed, FDC will make reasonable efforts to complete the repair or replacement within sixty (60) days of when it is made aware of the need for the repair or replacement, unless due to the severity of the repair more time is necessary, in which case FDC will make reasonable efforts to ensure the repair or replacement is completed within ninety (90)



days. In the interim, the IMD will be provided with a temporary wheelchair. If an appropriate temporary wheelchair is not available, FDC will make reasonable efforts to expedite the repair or replacement of the inmate's wheelchair, to be completed within fifteen (15) days. To the extent these timelines cannot be met, FDC will make reasonable efforts to communicate to the inmate in writing why it cannot meet these timelines (e.g., parts shipment is delayed, etc.). All such communications will be available to DRF upon request.

67. **Other Accommodations and Medical Devices.** FDC will continue to provide IMDs other approved accommodations and approved medical devices including prosthetic devices (and quarterly inspections of prosthetic devices), canes, walkers, walkers with seats, trapeze bars, orthopedic shoes and socks, braces, wedges, appropriate mattresses, cushions, wheelchair gloves, elevated lockers, housing in the same dorm as assigned IA (when not in special housing), grab bars, elevated toilets, shower chairs and seats, shower wands, and privacy screens, absent documented compelling security concerns. Finally, this paragraph shall not be construed as limiting the type of accommodations or medical devices that can be provided by FDC.

#### **Architectural Modifications**

68. **Recreational Tracks.** Existing recreational tracks at the facilities listed on Exhibit A, that are used for activities such as running and walking by inmates, will be paved so that they can be safely traversed by IVDs and IMDs. FDC has completed or will complete the track paving for Gadsden Re-Entry, Wakulla CI, Wakulla Annex, South Florida Reception Center Main, South Florida Reception Center South, Dade CI, Everglades CI, Everglades Re-Entry, Columbia CI, Columbia Annex, Zephyrhills CI, Florida Women's Reception Center, Lowell CI, Lowell Annex, Baker Re-Entry, Reception and Medical Center, New River Work Camp, and Santa Rosa Work

Camp on or before June 30, 2022. FDC will complete the remaining track paving at the remaining facilities in Exhibit A by June 30, 2023.

69. **Short-Term Architectural Modifications.** FDC will complete any remaining short-term items highlighted in yellow by December 31, 2022, as identified in Exhibit D. By June 30, 2023, VRL Architects Inc. (“VRL”), or a successor architect approved by both Parties, will conduct inspections to verify that the short term-items have been properly remedied and will provide copies of its reports to FDC and DRF as soon as reasonably possible. Exhibit “D” will be agreed upon on or before November 29, 2021.

70. **Long-Term Architectural Modifications.** FDC will complete one-third of the long-term architectural modifications highlighted in blue, as identified in Exhibit D (which will be memorialized on or before November 29, 2021), by December 31, 2023; two-thirds of the long-term architectural modifications by December 31, 2025; and the remaining long-term architectural modifications by December 31, 2027. VRL, or a successor architect approved by both parties, will conduct inspections within 90 days of the completion deadlines and issue a report to both Parties.

#### IV. IMPLEMENTATION OF COMPLIANCE REQUIREMENTS

71. **Agreement to Implement.** The Parties agree that the compliance requirements of the Agreement resolve all issues which have been raised in the Second Amended Complaint and should be implemented.

72. **Progress Meetings.** Until termination of the Agreement, FDC and DRF will meet quarterly to discuss FDC’s implementation of the compliance requirements of the Agreement, including but not limited to what requirements have been met and not met. The meetings will be held in Tallahassee, Florida, at a location chosen by FDC, although the location and city may be adjusted with the consent of both Parties, or the meetings may be held by videoconference with

the consent of both Parties. DRF will notify FDC of topics it would like to discuss at least two weeks in advance of the meeting. DRF may raise inmate-specific issues at these progress meetings, if those issues are identified at least two weeks in advance of the meeting. FDC will make available one or more staff members that can speak directly to any topic DRF identifies in advance of the meeting. FDC and DRF will work collaboratively to address any issues that might arise and suggest improvements to the implementation plan. Within twenty-one (21) days of the progress meeting, FDC will produce to DRF minutes of the meeting. The discussions in the Progress Meetings, and the resulting minutes, will not be used by either Party should additional or subsequent litigation be necessary.

73. **Inmate Meetings.** In addition to Progress Meetings, DRF may request an in-person meeting concerning specific inmates. The meetings will be held in Tallahassee, Florida, at a location chosen by FDC, although the location and city may be adjusted with the consent of both Parties, or the meetings may be held by videoconference with the consent of both Parties. The Inmate Meeting will be in lieu of communications concerning inmates via email and excel spreadsheets. DRF will notify FDC of the specific inmate concerns it would like to discuss at least two weeks in advance of the Inmate Meeting. FDC will make available at least one staff member from the ADA Team at the inmate's facility and one staff member from OHS to address DRF's concerns. The purpose of this meeting is to identify and address inmate-specific concerns that have not been resolved through the Complaint Procedures. If DRF believes that the Complaint Procedures cannot resolve the inmate-specific complaint or that urgent intervention is required, DRF may raise the issue without going through these processes, but it must provide an explanation specific to the individual complaint; otherwise FDC will expect that the inmate at issue will first utilize the Complaint Procedures before the specific complaint will be considered at an Inmate



Meeting. Both FDC and DRF will work collaboratively to address any issues that prevent the Complaint Procedures from being utilized. The discussions in the Inmate Meetings will not be used by either Party should additional or subsequent litigation be necessary.

74. **Monitor.** FDC will competitively procure a monitor and will agree to permit DRF to review and provide input on the competitive solicitation document. The Department will draft the solicitation documents so that, barring administrative challenges, a defect in the specifications necessitating re-procurement, a failure to receive any responsive bids, or other action or event outside of the control of the Department, the solicitation will include the following schedule and terms unless the Parties agree in writing otherwise:

A. The amount of the contract will not exceed \$250,000 annually.

B. The monitor will be someone who is knowledgeable on the application of the Americans with Disabilities Act and other disability related laws to prisons and incarcerated people.

C. The monitor will make two visits to Florida per year, with the first visit scheduled to occur in the first half of 2023, the second visit scheduled to occur in the second half of 2023, the third visit scheduled to occur in the first half of 2024, and the fourth visit scheduled to occur in the second half of 2024. On each visit, the monitor will tour a representative sample of four to five prisons in one Region and produce a report within 60 days of each visit. After all regions are visited, the monitor may return to inspect facilities with significant noncompliance, but the cost of monitoring shall not exceed the amount identified in the above paragraph without FDC's written consent. If any of the events mentioned in this paragraph 74 occurs that delays the commencement of the scheduled visits, FDC will notify DRF and take reasonable steps to resolve the issue causing the delay and ensure that the visits begin at the earliest practicable time thereafter.

D. During inspections, the monitor will test and inspect the VRS kiosks, video enabled devices, TTYs, CapTels, VRI services/equipment, light boards and visual alert systems, the paved tracks, a sample of wheelchairs, and a sample of white canes.

E. During the inspections, the monitor will interview a sample of Covered Inmates, including those with IAs, inmates who work as IAs, and FDC staff, including the members of the ADA Team, members of OHS including, the ADA Nurse and Chief Health Officer, and any on-site interpreter. The monitor will be permitted to observe quarterly ADA inmate meetings if feasible.

F. After receiving the monitor's report, the Parties will discuss the report at the next scheduled Progress Meeting. The report shall be subject to the terms of paragraph 81.

75. **Reporting.** Every one-hundred and twenty days (120) until the termination of this Agreement (unless another time period is specified elsewhere in this Agreement) FDC will provide to DRF, at no cost and without a request, via email or some other electronic method, copies of the following records:

A. A report, in Excel format, listing every inmate who has been given an "impairment grade" for hearing, vision, or mobility, along with the classification grade that has been assigned to that inmate.

B. A report, in Excel format, of all completed RMAR forms (currently FDC form DC2-530a and DC2-530b) containing the names and DC numbers of each inmate who submitted a request, a summary of the request, the institution the inmate was at when the request was submitted, the institution's recommendation regarding the request, the action taken on the request, and the date of the decision.



C. A report, in Excel format, of all disability-related grievance appeals, currently labeled as “code 24,” containing the Grievance Appeal case numbers, inmate names and DC numbers, the institution the inmate was at when the Grievance Appeal was received, when it was responded to, when it was mailed, and the disposition.

D. Documentation of sign language interpreter services, which provides the date, inmate name and DC number, and type of event, and whether the services were in-person or via a VRI service, when sign language interpreter services were provided to a D/HOH inmate.

E. All documentation showing the confiscation of any approved accommodation or medical devices as referenced in paragraph 48 (Confiscation of Approved Accommodations and Medical Devices).

76. **Other Access to Records.** In addition to the regular reports referenced in the previous paragraph, DRF may request, in writing to the designated FDC liaison, the following additional records relating to hearing, vision, or mobility issues: medical, hospital, classification, and utilization management records; grievances (including appeals and responses); RMARs; inspector general reports; and applications for the talking book program; of specific inmates DRF reasonably believes to be Covered Inmates. FDC will promptly acknowledge such requests and provide the requested records, without charge, as soon as practicable after receiving a request. The Parties will enter into a Business Associate Agreement, which will be attached as Exhibit “C” to this Agreement on or before November 29, 2021, which may be modified from time to time, and which authorizes FDC to disclose these records to DRF to the extent that they contain protected health information. The Parties will comply with Exhibit C. Nothing in this Agreement prohibits DRF from serving public records requests or utilizing other authorized means to obtain information that may be related to this Agreement.

77. **Continued Protection and Advocacy Activities.** The Parties agree that this Agreement in no way limits DRF's protection and advocacy activities, and DRF may continue these efforts during the implementation of this Agreement.

78. **Deadlines.** If it is determined that any of the deadlines identified herein cannot be met, FDC will provide an explanation to DRF at the earliest possible Progress Meeting, and FDC and DRF will work collaboratively to ensure the projects are completed. However, this reporting does not excuse a missed deadline; missed deadlines shall constitute a breach of the Agreement, subject to the other provisions of this Agreement.

79. **Specific Inmates Concerns.** The Parties agree that they will continue to meet in order to come to an agreement on whether to provide accommodations, medical devices, access to programming and other services, and appropriate passes for the inmates listed in Exhibit E by November 29, 2021. FDC will either provide the requested items listed above or provide an explanation to DRF as to why those requested items cannot be provided with respect to all the inmates listed in Exhibit E by the November 29, 2021, deadline.

80. **Non Retaliation.** FDC will not retaliate against any inmate involved with the litigation resolved by this Agreement, or any inmate who assists with ongoing compliance of this Agreement.

**Procedures for Allegations of Significant Breach of this Agreement.**

81. The Parties agree that this Agreement represents a written contract binding under state law and enforceable as a contract in state court; however, the Parties have agreed that the sole remedy, should a breach of contract action be filed, would be specific performance. Before any alleged violation of this Agreement is brought in state court, the Parties will, in good faith, attempt to resolve the problem among themselves as follows:

A. Notification Commencement: Any time after twelve (12) months following the Effective Date, if DRF believes that FDC has significantly breached this Agreement, the following Notice and Cure Procedures apply:

B. Notice of Significant Breach. DRF will endeavor to notify FDC of a significant breach at the earliest possible Progress Meeting. The Parties will work together collaboratively to attempt to reach resolution. If after two Progress Meetings the Parties have been unable to reach resolution, DRF will provide a written Notice of Significant Breach to counsel for FDC alleging that FDC has significantly breached this Agreement and containing sufficient detail for FDC to understand the nature and scope of the significant breach, to investigate it, and to take necessary corrective action. DRF will identify any corrective action it believes FDC should take in the notice.

C. Response to Notice of Significant Breach. FDC will promptly investigate and take corrective action to remedy the significant breach and will provide a written response to DRF as soon as practicable but not to exceed sixty (60) days after receiving the Notice of Significant Breach. FDC's written response will contain an outline of the steps FDC took to investigate the problem, the results of the investigation and a specific corrective action plan for addressing the stated problem. If FDC's response includes a corrective action plan, FDC will provide to DRF a written update on the status of the results of the corrective action plan every thirty (30) days until either party deems the problem to be resolved or DRF seeks to enforce this Agreement. If no corrective action is anticipated, or if FDC denies a significant breach, FDC's response will include the reason and any statutes, regulations or other bases upon which FDC is relying.

D. Reply Regarding Significant Breach. The purpose of the Notice and Response described in the two preceding paragraphs is to enable the Parties to work to avoid DRF taking further action to enforce this Agreement. To this end, DRF agrees to promptly advise FDC within



fourteen (14) days of receipt of FDC's response whether DRF continues to assert that FDC has significantly breached this Agreement. Adherence to the notice and cure provisions described herein will be a condition precedent to further action to enforce this Agreement as described below.

82. **DRF's Remedy for FDC's Alleged Significant Breach.** If, after completing the Notice and Cure Procedures described above, DRF, in its sole discretion, believes that FDC has still significantly breached this Agreement, DRF may file a breach of contract action in state court asserting a significant breach, in which event the sole remedy will be for specific performance. To the extent that DRF brings such a breach of contract seeking specific performance as the sole remedy, FDC will not assert sovereign immunity as a defense. If a breach of contract action is pending as of November 1, 2028, the termination of the specific terms of the Agreement at issue in the breach of contract action will be tolled.

83. **Termination.** Except as provided in the preceding paragraph, or subject to further agreement by the Parties, this Agreement will terminate on November 1, 2028.

84. **Effect of DRF's Inaction or Action With Respect To A Suit To Enforce.** Failure by DRF to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein will not be construed as a waiver of DRF's right to enforce other deadlines and provisions of this Agreement provided DRF complies with the Notice and Cure Provisions above. Moreover, if DRF seeks to enforce certain provisions in this Agreement by bringing a breach of contract action, and not seeking enforcement of other provisions at the same time, seeking enforcement of select provisions of this Agreement does not void the unchallenged terms of the Agreement and it remain in full force and effect throughout the entire term of this Agreement. Furthermore, DRF is not prohibited from bringing multiple breach of contract actions against FDC.

85. **Force Majeure.** A. Should a war, riot, fire, flood, hurricane, typhoon, earthquake, lightning, explosion, strike, lockout, pandemic, or prolonged shortage of energy supplies substantially impede FDC in its compliance with any of the terms of this Agreement, or substantially impede FDC's timely compliance with any of the terms of this Agreement, the Parties agree that the failure to comply or comply timely will be excused and will not be considered a failure to meet the terms of the Agreement. Should any of the events in this paragraph occur and substantially impede compliance, FDC will make reasonable efforts to restore or alternatively achieve compliance as soon as it is possible to do so.

B. It is not a breach of the Agreement if FDC cannot satisfy a compliance requirement when compliance is rendered impracticable due to undue fiscal burden or impossible due to actions of third parties or unavailability of labor and supplies outside of FDC's control.

C. If FDC contends that an event as described in subparagraph A or B of this paragraph has impeded FDC's compliance, FDC will notify DRF within ninety (90) days and explain a) what deadlines FDC cannot meet, and b) how and a reasonable estimate of when they will attempt to come into compliance. FDC's failure to notify under this paragraph will not result in a waiver of a force majeure defense should future litigation occur, however failure to notify will be treated as a breach of the Agreement.

## V. OTHER PROVISIONS

86. **Authentication of Documents.** If DRF files a breach of contract action, the Parties agree that any documents or reports provided by either Party pursuant to this Agreement will be deemed to be authenticated.

87. **No Admission.** FDC has entered into this Agreement in order to avoid the necessity of trial. Nothing in this Agreement should be construed as an admission of liability by FDC, and



the Agreement cannot be used as an admission by either Party in this or any other proceeding. Nothing in this Agreement or FDC's compliance with this Agreement will be construed as an admission or concession by DRF that FDC is in compliance with the Americans with Disabilities Act, the Rehabilitation Act, or any other statutory or constitutional provision.

88. **Agreement is the Product of Multiple Sessions.** The Agreement is the product of multiple lengthy negotiation sessions and compromise by both DRF and FDC.

89. **Modification of the Manner in Which FDC Provides Accommodations or Medical Devices to Covered Inmates.** FDC specifically reserves the right to change, alter, amend, or rescind the manner in which it treats Covered Inmates, to the extent that such amendments, alterations, or changes are required by federal law in order to retain or obtain federal funding or to avoid federal sanctions. If DRF believes FDC has violated any constitutional, statutory, regulatory, or other legal provision in a manner that is not covered by this Agreement, DRF specifically reserves the right to bring a separate action against the official capacity agency head of FDC for such alleged violation and FDC agrees to not raise the defense of collateral estoppel or res judicata in an action for prospective declaratory and injunctive relief.

90. **Modification of Agreement.** Except as stated otherwise herein, should the Parties in the future jointly determine to modify any provision of this Agreement, any modifications must be reduced to writing and signed by both Parties. No modification will take effect unless it is reduced to writing and signed by both Parties. These actions must receive the prior written approval of both Parties, which approval will not be unreasonably withheld or delayed.

91. **Agreement Binding on Successors.** It is the intent of the Parties that this Agreement will be binding upon the Parties, and their successors, assigns, employees, contractors and agents.

92. **Agreement Constitutes Entire Agreement.** This Agreement, including any attachments, constitutes the entire Agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Agreement, whether oral or written, regarding the subject covered in this Agreement. The Parties acknowledge that no representations, inducements, promises, or statements related to this settlement or the subjects covered in this Agreement, oral or written, have been made by any of the Parties or by anyone acting on behalf of the Parties which are not embodied or incorporated by reference in this Agreement, and further agree that no other agreement, covenant, representation, inducement, promise, or statement relating to this settlement or the subjects covered in this Agreement not set forth in writing in this Agreement have been made by any Party.

93. **Effective Date of Agreement.** This Agreement will become effective on the Effective Date. It may be executed by the Parties in multiple counterparts and will constitute one final Agreement which will be binding upon each party hereto, notwithstanding the fact that all of the signatures required to effectuate this Agreement do not appear on the same page. An electronic signature will have the same force and effect as an original signature.

94. **Agreement Subject to Legislative Appropriations.** The Parties recognize that this Agreement includes plans for activities extending beyond the current fiscal year, and fiscal year 2021-2022.

A. The Parties recognize that the continued implementation of this Agreement past July 1, 2022, is dependent upon legislative appropriation. FDC will make reasonable efforts to secure the legislative appropriations necessary to meet the terms of this Agreement, with funding anticipated to commence in the 2022-23 fiscal year. The inability to perform any act required under this Agreement due to non-appropriation of funds, so long as those funds are necessary to

implement or support this Agreement, will not be deemed to be a significant breach by FDC so long as FDC exercises reasonable efforts to secure the appropriations at issue. If FDC does not receive appropriations in subsequent years, DRF may file a separate lawsuit with respect to those issues which it contends amount to systemic violations of federal law and the official capacity agency head of FDC will not raise the defense of collateral estoppel or res judicata in an action for prospective declaratory and injunctive relief.

**B. Compliance with Section 45.062.** Each of the signatories to this Settlement Agreement on behalf of FDC represents that they will take all necessary steps to comply with the requirements of section 45.062, Florida Statutes.

95. **Release.** Contingent on FDC meeting its obligations under the Agreement, DRF hereby releases and discharges FDC, including its successors and assigns, of and from any claims or causes of action arising out of the matters described in the Second Amended Complaint.

96. **Voluntary Dismissal.** Ten (10) days after the resolution of the issue of attorneys' fees and costs as specified in the following paragraph, and payment of said fees and costs, the Parties will file a Stipulated Notice of Dismissal with Prejudice.

97. **Attorneys' Fees and Costs.** The Parties will continue to attempt to resolve the amount of DRF's attorneys' fees and costs, including but not limited to attempting to schedule a mediation. However, should the Parties be unable to resolve the amount of attorneys' fees and costs, the parties have agreed to a subsequent hearing, which will include (1) a determination of a liability percentage; and (2) a determination as to the amount of attorneys' fees and costs to which DRF would be entitled if FDC were determined to be 100% liable for all fees and costs. The Parties will be entitled to submit competing memoranda on both issues, limited to 35 pages total exclusive of exhibits to be filed at least thirty (30) days in advance of the hearing. The Parties will be entitled



to submit up to a 25-page response to the initial memoranda at least ten (10) days in advance of the hearing. The Parties will be entitled to attach supporting evidence to the initial and response memoranda. The hearing itself will consist of (1) argument relating to the liability percentage, (2) an evidentiary hearing relating to the amount of attorneys' fees and costs to which DRF would be entitled if FDC were determined to be 100% liable for all fees and costs, and (3) any other procedures required by the court in its discretion. The only evidence that will be presented and considered at the hearing will be the testimony of the respective Parties' expert on fees and costs, any documentary evidence on which the respective experts rely, and any exhibits submits with the memoranda. Subsequent to the hearing, the amount of fees and costs to be awarded to DRF will be determined by multiplying the amount of fees and costs to which DRF would be entitled if FDC were determined to be 100% liable for all fees and costs as determined by the court during the evidentiary component of the hearing by the liability percentage determined by the court on the basis of the Parties' memoranda and argument.

In the event of a breach of contract action, the Parties agree that DRF shall be entitled to its reasonable attorneys' fees and expenses if a state court finds FDC significantly breached this Agreement. If either Party appeals a decision from said breach of contract action, FDC agrees to pay DRF's reasonable attorneys' fees and expenses for the appeal if DRF prevails on the appeal.

Signature Page to Follow.

IN WITNESS WHEREOF, the Parties to this Settlement Agreement have executed the same as of 8th day of November, 2021.


**FLORIDA DEPARTMENT OF CORRECTIONS**



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**By: Sean Anderson**  
**Assistant General Counsel**

**DISABILITY RIGHTS FLORIDA**



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**By: Peter Sleasman**  
**Executive Director**



**REVISED EXHIBIT A**  
**ADA Designated Institutions and Dorms**  
**November 8, 2021**

INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
<b>Region 1</b>					
<b>Wakulla CI</b> (Interpreters)	B	All	Faith and Character	OB	
	C	1, 2	Faith and Character	OB	Light Board, Video Enabled Device, AHA
	D	All	Faith and Character	OB	
<b>Wakulla-Annex</b> (Interpreters)					
	J	1, 2	Confinement	SC	AHA
	J	4	General Population	OB	Light Board, Video Enabled Device, AHA
	K	1, 2	General Population	OB	Light Board, Video Enabled Device, AHA
	L	1, 2	Protective Management	OB	Light Board, Video Enabled Device, AHA
	M	all	Protective Management	OB	
	N	1, 4	DTU (Diversionary Treatment Unit)	SC	Light Board, Video Enabled Device, AHA
	O	1, 4	STU (Secure Treatment Unit)	SC	Video Enabled Device, AHA
	P	1, 4	Future STU (Secure Treatment Unit)	SC	Video Enabled Device,
	Q	1, 2,	Inpatient/Cognitive	SC	Video Enabled Device, AHA

**\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.**

**\*\*Interpreters means Interpreting services are provided at the facility either through on-site interpreters or video remote interpreting, as specified in the Agreement.**

**Note: all dorms and wings listed must have all accommodations for IVDs and IMDs**

**REVISED EXHIBIT A**  
**ADA Designated Institutions and Dorms**  
**November 8, 2021**

INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
		3, 4			
<b>Santa Rosa - Main</b>					
	A	all	General Population	OB	
	C	1, 2, 3	Close Management	SC	
	F	1, 2, 3	Close Management	SC	
	G	1, 2, 3	Close Management	SC	
<b>Santa Rosa - Annex</b>					
	J	1, 4	TCU (Transitional Care Unit)	SC	
	K	1, 4	Confinement	SC	
	M	All	General Population	OB	
	N	All	General Population	OB	
	O	All	General Population	OB	
	P	All	General Population	OB	
	Q	1, 2, 4	Inpatient	SC	
<b>Santa Rosa WC</b> <i>Currently closed</i>					
	T	all	General Population	OB	
<b>NWFRC-Main</b> Interpreters					
	A	All	General Population	OB	Video Enabled Device

**\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.**

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**REVISED EXHIBIT A**  
**ADA Designated Institutions and Dorms**  
**November 8, 2021**

INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
	B	All	General Population	OB	
	D	All	General Population	OB	
	E	All	General Population	OB	
	G	1, 4	Confinement	SC	
<b>NWFRC-Annex Interpreters</b>					
	J	1, 4	Confinement	SC	AHA
	K	1, 4	General Population	SC	
	L	1, 4	General Population	SC	Light Board, Video Enabled Device, AHA
	M	1, 2	General Population	OB	Light Board, Video Enabled Device, AHA
	N	All	General Population	OB	
	O	All	General Population	OB	
	P	All	General Population	OB	
	Q	All	General Population	OB	
<b>Gadsden Re-Entry Interpreters</b>					
	B	all	General Population	OB	
	C	1	General Population	OB	Light Board, Video Enabled Device, AHA
<b>Region 2</b>					
<b>RMC Main Unit Interpreters</b>					
	C	1, 2	General Population	OB	Light Board, Video Enabled Device,

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Note: all dorms and wings listed must have all accommodations for IVDs and IMDs



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**ADA Designated Institutions and Dorms**  
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INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
					AHA
	D	all	General Population	OB	
	E	all	General Population	OB	
	F	all	General Population	OB	
	H	all	Hospital CSU/TCU	RM/SC	Video Enabled Device, AHA
	J	all	Dialysis/IMR	OB/SC	Video Enabled Device, AHA
	K	1	Confinement	SC	AHA
	L	all	Cancer/Dialysis	OB	AHA
<b>Union CI</b>					
	P	3, 4, 5, 6	Death Row	SC	AHA
	U	All	Close Management	SC	
	V	all	Close Management	SC	
	T	1	Confinement	SC	AHA
<b>Union WC Interpreters Working to reopen</b>					
	A	1	General Population	OB	Light Board, Video Enabled Device, AHA
<b>Suwannee CI Interpreters</b>					
	A	1	Confinement/YO	SC	
	A	3	Confinement/YO	SC	Light Board, Video Enabled Device, AHA

\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.

\*\*Interpreters means interpreting services are provided at the facility either through on-site interpreters or video remote interpreting, as specified in the Agreement.

Note: all dorms and wings listed must have all accommodations for IVDs and IMDs

**REVISED EXHIBIT A**  
**ADA Designated Institutions and Dorms**  
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INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
	B	All	General Population	OB	
	C	all	General Population	OB	
	D	all	General Population	OB	
	E	1, 4	Close Management	SC	Video Enabled Device, AHA
	F	1, 4	Close Management	SC	AHA
	G	1, 4	Close Management	SC	AHA
	H	1, 4	Inpatient	SC	Video Enabled Device, AHA
<b>Suwannee-Annex Interpreters</b>					
	I	1	General Population	OB	Light Board, Video Enabled Device, AHA
	J	All	General Population	OB	
	K	all	General Population	OB	
	L	All	General Population	OB	
	M	2	General Population	OB	Light Board, Video Enabled Device, AHA
	N	All	General Population	OB	
	P	1, 4	Confinement	SC	AHA
<b>Suwannee WC Interpreters Currently closed</b>					
	A	1	General Population	OB	Light Board, Video Enabled Device, AHA
<b>Columbia CI</b>					

\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.

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Note: all dorms and wings listed must have all accommodations for IVDs and IMDs



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**ADA Designated Institutions and Dorms**  
**November 8, 2021**

INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
Interpreters					
	A	all	General Population	OB	Light Board, Video Enabled Device, AHA
	H	1, 2, 3	Confinement	SC	AHA
	Y	2	Confinement	SC	
Columbia-Annex Interpreters					
	N	1, 4	Confinement	SC	AHA
	O	all	Protective Management	PM	Light Board, Video Enabled Device, AHA
	P	all	General Population	OB	Light Board, Video Enabled Device, AHA
	Q	2	General Population/Pell	OB	Light Board, Video Enabled Device, AHA
	R	all	General Population	OB	
	S	1, 4	General Population	SC	
	T	1, 4	General Population	SC	
	U	1, 4	Gen. Pop./Faith and Char.	SC	Light Board, Video Enabled Device, AHA
Baker Re-Entry Interpreters	C	1	General Population	OB	Light Board, Video Enabled Device, AHA

\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.

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Note: all dorms and wings listed must have all accommodations for IVDs and IMDs

**REVISED EXHIBIT A**  
**ADA Designated Institutions and Dorms**  
**November 8, 2021**

INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
<b>Region 3</b>					
<b>Lake CI</b>					
	H	all	Inpatient/MHTF	SC	Video Enabled Device, AHA
<b>FWRC Interpreters</b>					
	A	1, 4	Confinement/GP	SC	AHA
	B	1, 4	Inpatient/MHTF	SC	Video Enabled Device, AHA
	C	1	General Population	OB	Light Board, Video Enabled Device, AHA
	D	all	General Population	OB	
	E	1	General Population	OB	Light Board, Video Enabled Device, AHA
	F	All	General Population	OB	
	G	all	General Population	OB	
	H	2	General Population	OB	Light Board, Video Enabled Device, AHA
<b>CFRC Main Unit Interpreters</b>					
	A	1	General Population	OB	Light Board, Video Enabled Device, AHA
	H	2	Confinement	SC	AHA
<b>CFRC South Unit Interpreters</b>					
	A	all	Intensive Medical	RM	Video Enabled Device, AHA
	B	all	Palliative Care	SC	Video Enabled Device, AHA

**\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.**

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**Note: all dorms and wings listed must have all accommodations for IVDs and IMDs**

**REVISED EXHIBIT A**  
**ADA Designated Institutions and Dorms**  
**November 8, 2021**

INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
<b>Lowell CI</b> Interpreters					
	I	1	Pregnant Female	OB	Light Board, Video Enabled Device,
	D	all	Intensive Medical	OB	Video Enabled Device, AHA
<b>Lowell-Annex</b> Interpreters					
	N	all	General Population	OB	Light Board, Video Enabled Device, AHA
	O	all	General Population	OB	
	P	All	General Population	OB	
	Q	all	General Population	OB	
	R	all	Faith and Char/Drug Tr.	OB	Light Board, Video Enabled Device, AHA
	S	2	Confinement	SC	AHA
	T	1, 2, 3, 4	Close Management	SC	AHA
<b>Zephyrhills CI</b>					
	J	all	Intensive Medical	OB	AHA
	A	all	Intensive Medical/Elderly	OB	AHA
<b>Kissimmee CRC</b> Interpreters					
	C	1	General Population	OB	Light Board, Video Enabled Device, AHA

\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.

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Note: all dorms and wings listed must have all accommodations for IVDs and IMDs



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INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
<b>Region 4</b>					
<b>SFRC Interpreters</b>					
	C	1	General Population	OB	Light Board, Video Enabled Device, AHA
	E	all	Confinement	SC	
	F	all	Intensive Medical	OB	Light Board, Video Enabled Device, AHA
<b>SFRC South Unit Interpreters</b>					
	B	2	General Population	SC	Light Board, Video Enabled Device, AHA
	C	1	General Population	SC	Light Board, Video Enabled Device, AHA
<b>Dade CI Interpreters</b>					
	A	all	General Population	OB	Light Board, Video Enabled Device, AHA
	B	all	General Population	OB	Light Board, Video Enabled Device, AHA
	C	All	General Population	OB	
	D	all	General Population	OB	
	E	all	General Population	OB	
	F	1, 2, 3	Confinement	SC	AHA

\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.

\*\*Interpreters means Interpreting services are provided at the facility either through on-site interpreters or video remote interpreting, as specified in the Agreement.

Note: all dorms and wings listed must have all accommodations for IVDs and IMDs

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**ADA Designated Institutions and Dorms**  
**November 8, 2021**

INSTITUTION	DORM	Wing	MISSION	DORM TYPE	Deaf/Hard of Hearing Accommodations
	J	2	Inpatient	RM/SC	AHA
	J	4	Inpatient	RM/SC	Light Board, Video Enabled Device, AHA
<b>Everglades Main Unit Interpreters</b>					
	B	1	General Population – Faith & Character	OB	Bottom Floor Light Board, Video Enabled Device, AHA
	B	2	General Population	OB	Bottom Floor Light Board, Video Enabled Device, AHA
<b>Everglades Re-Entry Interpreters</b>					
	A	1	General Population	OB	First room Light Board, Video Enabled Device, AHA
<b>Hollywood CRC Interpreters</b>					
	C	1	General Population	OB	First room Light Board, Video Enabled Device, AHA

**\*Alternative Hearing Accommodation (AHA) means TTY, flashing lights, and flash cards.**

**\*\*Interpreters means Interpreting services are provided at the facility either through on-site interpreters or video remote interpreting, as specified in the Agreement.**

**Note: all dorms and wings listed must have all accommodations for IVDs and IMDs**



# **EXHIBIT 27**

# EXHIBIT A



2. Plaintiffs' complaint alleges that IDOC has denied Plaintiffs and other deaf and hard of hearing inmates in IDOC custody the assistance they need to communicate effectively and participate in IDOC programs and services, in violation of the Americans with Disabilities Act ("ADA"), the Rehabilitation Act, the Religious Land Use and Institutionalized Persons Act, and the Eighth and Fourteenth Amendments to the Constitution of the United States.

3. Plaintiffs brought this action as a class action on behalf of themselves and all current and future deaf or hard of hearing individuals incarcerated in IDOC facilities who require accommodations, including interpreters or other auxiliary aids or services, to communicate effectively, and/or to access programs or services available to individuals incarcerated by IDOC. By order dated October 8, 2014, the Court granted Plaintiffs' motion for class certification, certifying a class of deaf and hard of hearing IDOC inmates (the "Class").

4. Through this action, Plaintiffs have sought declaratory and injunctive relief to remedy the alleged past violations of the statutory and constitutional rights of the Class, and to prevent future violations of the same.

5. In the interest of compromise and settlement and in recognition of the positions of the Parties to the above case, Plaintiffs, by their counsel, and Defendant Baldwin, by his counsel, and in his official capacity as Director of IDOC, have agreed to enter into this Settlement Agreement. Without conceding any infirmity in their claims or defenses, after extensive discovery, the Parties have engaged in arm's-length settlement negotiations to resolve the claims raised by this action as set forth in Plaintiffs' Complaint. Plaintiffs and Defendant have reached an agreement for settling this litigation that the Parties believe is fair, reasonable, and adequate to protect the interests of the Parties. The Parties believe that this Settlement Agreement will benefit deaf and hard of hearing inmates who are confined in IDOC correctional facilities.

6. The terms of this Settlement Agreement shall be applicable to and binding upon the Class, the Defendant in his official capacity as Director of IDOC, the IDOC and its officers, agents, and employees, and the successors and assigns of each of them.

7. This Settlement Agreement applies to all of IDOC's existing correctional facilities housing adult male and female inmates, as well as any new facilities where adult inmates are confined during the life of this Settlement Agreement.

8. By entering into this Settlement Agreement, neither the Defendant, IDOC, nor the State of Illinois admits any liability regarding the allegations made in this action, and nothing herein shall be deemed as an admission of fault of any kind by the Defendant or IDOC. The Defendant and IDOC specifically deny that any incarcerated individuals' rights have been violated or will be violated in the future. Moreover, this Settlement Agreement and all reports drafted in response to it may not be used as evidence of liability or lack of liability in any other legal proceeding.

9. The Parties will file this Settlement Agreement with the Court, and ask that the Court approve it; approval is a condition precedent to the Settlement Agreement's effectiveness. Upon Court approval and subsequent termination of the Court's jurisdiction and completion of the obligations under this Settlement Agreement, this Settlement Agreement shall constitute full and final settlement of the Plaintiffs' and Class members' claims that have been brought, and claims for injunctive relief that could have been brought in this action, relating to the factual allegations in the Complaint or the provision of Auxiliary Aids and Services to deaf and hard of hearing inmates while in IDOC custody, from the beginning of time to the Effective Date of this Settlement Agreement.



## II. JURISDICTION

10. This Court has subject matter jurisdiction over this litigation pursuant to 28 U.S.C. §§ 1331 and 1343 and the authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Federal Rules of Civil Procedure 57 and 65.

11. For purposes of this Settlement Agreement, the Parties consent to and will not contest the jurisdiction of this Court over this matter.

12. The Court shall retain jurisdiction over this matter to enforce the terms and conditions of this Settlement Agreement, to resolve disputes arising hereunder, and for such other actions as may be necessary or appropriate for construction or execution of this Settlement Agreement, as limited by the Termination provisions below.

## III. DEFINITIONS

The following definitions shall apply to the following terms used in this Stipulation of Settlement:

13. “Agency ADA Coordinator” shall mean an employee of IDOC who has oversight over Class Members receiving the auxiliary aids and services necessary for effective communication for access to programs and services as set forth in this Settlement Agreement.

14. “Audiological Evaluation” means a procedure performed by a licensed audiologist to measure the type, degree, configuration, and level of a person’s hearing loss through audiological tests that result in an audiogram. The Audiological Evaluation is specifically designed to measure the level of hearing rather than screen whether a person may be deaf or hard of hearing. IDOC will request, and exercise reasonable effort to obtain from all licensed audiologists performing Audiological Evaluations, an “Audiological Report” that makes findings as to (1) the level and nature of hearing loss in each ear of the person subject to the evaluation; and (2) whether

the person subject to the evaluation would benefit from a hearing aid in the person's left ear, right ear, both ears, or neither ear.

15. "Auxiliary Aids and Services" that may be provided include, but not be limited to, the following: Qualified Interpreters; Video Remote Interpretation ("VRI"); real-time computer-aided transcription services; telephone handset amplifiers; assistive listening devices; assistive listening systems; hearing aids; hearing aid batteries; headphones; vibrating alarm clocks and watches; tactile alarm clocks and watches; telephones compatible with hearing aids; closed caption decoders; open – and closed – captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones; and other effective methods of making aurally delivered information available to Deaf or Hard of Hearing individuals.

16. "Auxiliary Aids and Services Assessment" shall mean an individualized assessment of an inmate performed by a Qualified Specialist (as defined herein) for the purpose of determining what Auxiliary Aids and/or Services are necessary to ensure effective communication with the inmate and to permit the inmate to adequately, equally and fully participate in all services, programs, activities, benefits, and other opportunities offered at the IDOC facility in which the inmate is incarcerated to inmates who are neither Deaf nor Hard of Hearing.

17. "Certified Deaf Interpreter (CDI)" is an individual who is deaf or hard of hearing who works with a hearing Qualified Interpreter to ensure effective interpretation between a person speaking in English and a person who is deaf or hard of hearing who is not fluent in English or American Sign Language. After the Qualified Interpreter has interpreted spoken English into American Sign Language, the CDI interprets from American Sign Language to a form of sign

language understood by the deaf or hard of hearing person who does not have fluency in either English or American Sign Language. A CDI is certified to have demonstrated knowledge and understanding of interpreting, deafness, the Deaf community, and Deaf culture, as well as specialized training and/or experience in the use of gesture, mime, props, drawings and other tools to enhance communication, as well as native or near-native fluency in American Sign Language. A CDI may be appropriate in several situations including, but not limited to, when the deaf person has underdeveloped ASL skills, limited socialization in the deaf community, limited education, cognitive challenges, delayed language, organic issues causing affect deficiencies, mental illness, and other physical challenges. In Illinois, all persons working as a CDI are required to be licensed pursuant to the Illinois Interpreter for the Deaf Licensure Act of 2007, 225 ILCS 443/1 et seq., and the regulations thereunder at 68 IL Admin Code 1515.10 et seq.

18. “Chief Administrative Officer” shall mean the highest ranking official of a correctional facility.

19. “Class Counsel” refers to counsel of record for the named Plaintiffs in this matter and the “Class Members.”

20. “Class” or “Class Members” refers to all current and future deaf or hard of hearing individuals incarcerated within IDOC who require accommodations, including interpreters or other Auxiliary Aids or Services, to communicate effectively to adequately access programs or services available to individuals incarcerated within IDOC.

21. “Communication Plan” shall mean the ADA Individualized Communication Plan described in Section IX, which contains the information gathered through the Auxiliary Aids and Services Assessment, and shall list the accommodations approved for the offender.

22. “Deaf or Hard of Hearing inmate” means an inmate who, unaided by hearing aids or any medical device, is unable to hear in either one or both ears to a sufficient degree to be able to understand the spoken word, particularly with the level of noise in the prison environment. Persons who cannot hear in one ear to a decibel level of 40 are presumed to meet the definition of Deaf or Hard of Hearing. For purposes of the accommodations, rights, and other provisions outlined herein, an inmate shall be deemed to meet the definition of “Deaf or Hard of Hearing inmate” at the earliest of these points in time: (a) if the inmate, as of the date of this Agreement, has already been designated by, or treated as, Deaf or Hard of Hearing by IDOC; (b) if a Hearing Screening of the inmate demonstrates that the inmate meets the definition; or (c) if an Audiological Examination of the inmate demonstrates that the inmate meets the definition.

23. “Effective Date” shall mean the date upon which this Settlement Agreement is approved and entered by the Court or a motion to approve or enter the Settlement Agreement is granted, whichever occurs first, as recorded on the Court’s docket.

24. “Facility ADA Coordinator” shall mean a person at each IDOC facility responsible for ensuring that Class Members at that facility receive the auxiliary aids and services necessary for effective communication for access to programs and services.

25. “Hearing Screening” means a standard, recognized medical procedure performed by appropriate medical staff to identify whether an individual may have a hearing issue, including whether they may be deaf or hard of hearing. Such a screening does not measure the level of hearing a person has but identifies only whether a person might have a hearing issue, including whether the person may be deaf or hard of hearing. Such a screening may consist of multiple steps, such as a test for gross hearing loss, then a test using an audioscope.

26. “High Stakes Interactions” are defined as those in which the risks of miscommunication or misunderstanding are high and the consequences of miscommunications may have serious repercussions for inmates. High Stakes Interactions include: medical care and appointments, including dental, vision, audiological, mental health care and appointments, and include both individual therapy and group counseling sessions (unless the medical care or appointment is routine and does not involve substantial conversation, for example, blood work for routine lab tests or regular allergy shots); disciplinary investigations and disciplinary hearings; educational programs, specific training sessions and general educational opportunities that include a verbal component; vocational programs that include a verbal component; transfer and classification meetings; meetings with the Facility ADA Coordinator to discuss Auxiliary Aids and Services in the development of the inmate’s Communication Plan.

27. “Intake Physical Examination” means the physical examination that IDOC administers to all new inmates upon the inmate entering IDOC custody.

28. “Periodic Physical Examination” means the physical examination that IDOC administers to inmates on a cyclical basis.

29. “Primary Consideration” means that in determining what type of Auxiliary Aids and Services are necessary to comply with the ADA and this Settlement Agreement, IDOC shall give primary consideration and substantial weight to the expressed preference for a particular Auxiliary Aid or Service made by the Deaf or Hard of Hearing inmate. *See* 28 C.F.R. §35.160. Primary Consideration is subject to and limited by the provisions in Paragraph 51 of this Settlement Agreement.

30. “Qualified Interpreter” means an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially,



both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, certified deaf interpreters, and cued-language transliterators. 28 C.F.R. §35.104. A Qualified Interpreter must be licensed to practice in the State of Illinois pursuant to the Interpreter for the Deaf Licensure Act of 2007, 225 ILCS 443/1-900. No inmate or Correctional Officer qualifies or may be used as a Qualified Interpreter.

31. “Qualified Specialist” shall mean a person, contracted through the Chicago Hearing Society or otherwise, who is familiar with American Sign Language, oral communication, and gestural communication who has experience assessing the reading and writing ability of Deaf and Hard of Hearing individuals, and who is able to determine when a Certified Deaf Interpreter is necessary. The Qualified Specialist performs an Auxiliary Aids and Services Assessment.

#### **IV. IDENTIFYING DEAF AND HARD OF HEARING INMATES THROUGH HEARING SCREENING AND AUDIOLOGICAL EVALUATIONS**

32. Within ninety (90) days of the Effective Date, IDOC (either through amendment of IDOC Administrative Directive No. 04.03.101 §§ II(G)(2)(a) and (b), or otherwise) shall adopt a policy and procedure pursuant to which Hearing Screenings are required as a routine and regular part of (a) IDOC’s Intake Physical Examination for all inmates; and (b) IDOC’s Periodic Physical Examinations of all IDOC inmates who self-report as deaf or hard of hearing or who have been determined to have hearing loss during their Intake Physical Examination.

33. Within thirty (30) days after IDOC takes the action identified in Paragraph 32, a Hearing Screening shall take place for (a) all Intake Physical Examinations and (b) Periodic Physical Examinations of inmates who self-report as deaf or hard of hearing or who have been

determined to have hearing loss by an Intake Physical Examination. This shall not apply to individuals who are in the custody of the IDOC for less than 24 hours and are then either released or transferred to a different correctional agency or governmental entity.

34. Within ninety (90) days of the Effective Date, IDOC shall implement a procedure whereby inmates can request to receive a Hearing Screening and, if an inmate makes such a request, the inmate will receive such a screening within thirty (30) days. An inmate's request for a hearing aid or to be identified as Deaf or Hard of Hearing will be considered a request for a Hearing Screening.

35. Within ninety (90) days of the Effective Date, IDOC shall prominently display in all IDOC facility inmate living units and medical units a notice informing inmates that they may request a Hearing Screening. This notice shall be in large print, at least 20 point font, and in simple English. It may be removed after being posted for twenty-one (21) calendar days. Inmates who do not have access to the posted notice due to various safety or other restrictions imposed on them shall receive a copy of the notice.

36. Within ninety (90) days of the Effective Date, IDOC (either through amendment of IDOC Administrative Directive No. 04.03.101 §§ II(G)(2)(a) and (b), or otherwise) shall adopt a policy and procedure pursuant to which inmates whose Hearing Screenings determine that they may be Deaf or Hard of Hearing must be referred to an audiologist for an Audiological Evaluation at the earlier of: (a) thirty (30) days after arrival to their home facility; or (b) 45 days after being admitted into IDOC custody. If, after an initial referral, an inmate is transferred before his audiological appointment, then IDOC shall have fourteen (14) days to issue a new referral. The failure to show appropriate response to presentation stimuli in either ear during the Hearing Screening will indicate that the inmate may be Deaf or Hard of Hearing.

37. Inmates identified as Deaf or Hard of Hearing by Audiological Evaluation shall (a) undergo an Auxiliary Aids and Services Assessment, outlined herein; and (b) undergo a new Audiological Evaluation every three years, to determine if changes in hearing have occurred. If it is determined by both the Deaf or Hard of Hearing inmate and IDOC that the inmate is to be considered Deaf or Hard of Hearing and does not need a Hearing Screening to prove such status (i.e., profoundly deaf inmate who would not benefit from hearing aids), the Deaf or Hard of Hearing inmate may be referred directly to the Auxiliary Aids and Services Assessment, without a Hearing Screening.

38. IDOC shall document and maintain in the inmate's medical file the results of all Hearing Screenings and Audiological Evaluations which will include a record containing a description of the determination made as to the type, degree, and configuration of any hearing loss or hearing level. IDOC shall note in a centralized database of inmates (which contains the characteristics and information set forth below), whether the inmate has been classified as Deaf or Hard of Hearing.

#### **V. CREATION AND MAINTENANCE OF A CENTRALIZED DATABASE OF DEAF AND HARD OF HEARING INMATES**

39. Within ninety (90) days of the Effective Date, IDOC will employ a centralized database for inmates containing an entry for each Deaf or Hard of Hearing inmate. IDOC may choose to use Offender 360 as this centralized database, so long as Offender 360 has the capabilities required to comply with the terms of this Settlement Agreement.

40. This centralized database will include at least the following information:
- a. the name of the inmate;
  - b. the facility at which the inmate is housed;

- c. whether the inmate was provided, and whether the inmate accepted, an identification card as described in this Settlement Agreement;
- d. a copy, or description of the contents, of the written record of the Auxiliary Aids and Services Assessment and Communication Plan for the inmate, as described in this Settlement Agreement; and
- e. a copy, or description of the contents, of any written records concerning the provision of Auxiliary Aids and Services, as described in this Settlement Agreement, including the inmate's Communication Plan.

41. On a continuing basis after the Effective Date, IDOC shall promptly and regularly update the centralized database to account for information relating to all inmates identified as Deaf or Hard of Hearing.

42. This information in the centralized database shall be accessible to all IDOC personnel who are responsible for IDOC's compliance with the ADA or with this Settlement Agreement.

## **VI. DEAF AND HARD OF HEARING INMATE IDENTIFICATION CARD**

43. Subject to Paragraph 44 immediately below, within thirty (30) days of the Effective Date, or within thirty (30) days of being identified as Deaf or Hard of Hearing in the case of inmates identified as Deaf or Hard of Hearing after the Effective Date, IDOC shall offer inmates identified as Deaf or Hard of Hearing an IDOC-issued inmate identification card that clearly indicates the inmate is Deaf or Hard of Hearing.

44. Deaf and Hard of Hearing inmates will be given the option of declining to receive such an identification card; each inmate shall be free to change his or her mind about whether to receive and carry such an identification card and, barring unforeseen circumstances, IDOC shall

accommodate the inmate's decision within fourteen (14) days provided that once an inmate changes his or her mind pursuant to this paragraph, they must wait either twelve (12) months or upon transfer to a new parent facility, whichever is earlier, to change their mind again.

**VII. DEAF AND HARD OF HEARING INMATE AUXILIARY AIDS AND SERVICES ASSESSMENT**

45. Within sixty (60) days of the Effective Date, IDOC will enter into a contract with Chicago Hearing Society to retain one or more Qualified Specialists who will perform an Auxiliary Aids and Services Assessment for every inmate identified as Deaf or Hard of Hearing.

46. IDOC shall retain a Certified Deaf Interpreter ("CDI") for the Auxiliary Aids and Services Assessment when a Deaf or Hard of Hearing inmate has no proficiency in either English or American Sign Language, or when the Qualified Specialist determines that a CDI is necessary.

47. As to all current IDOC inmates who have been identified as Deaf or Hard of Hearing as of the Effective Date, the Auxiliary Aids and Services Assessment shall be performed within one hundred twenty (120) days of the events described in Paragraph 33 of this Agreement. If the Chicago Hearing Society is unable to provide a willing and able Qualified Specialist, IDOC shall make reasonable efforts to secure a Qualified Specialist to perform an Auxiliary Aids and Services Assessment on the inmate. If IDOC is unable to secure a Qualified Specialist for the inmate, the time frames for obtaining an Auxiliary Aids and Services Assessment outlined in this Agreement will be stayed until such time as the Chicago Hearing Society is able to provide a Qualified Specialist or IDOC is otherwise able to secure one based on reasonable efforts. IDOC will not be considered to be in noncompliance with this provision if it is unable to perform a requirement through no fault of its own.

48. As to all inmates identified as Deaf or Hard of Hearing after the Effective Date, once a Qualified Specialist is retained, the Auxiliary Aids and Services Assessment shall be



performed promptly after, and in any case no later than thirty (30) days after the Audiological Report for the inmate is issued. If the Chicago Hearing Society is unable to provide a willing and able Qualified Specialist, IDOC shall make reasonable efforts to secure a Qualified Specialist to perform an Auxiliary Aids and Services Assessment on the inmate. If IDOC is unable to secure a Qualified Specialist for the inmate, the time frames for obtaining an Auxiliary Aids and Services Assessment outlined in this Agreement will be stayed until such time as the Chicago Hearing Society is able to provide a Qualified Specialist or IDOC is otherwise able to secure one based on reasonable efforts. IDOC will not be considered to be in noncompliance with this provision if it is unable to perform a requirement through no fault of its own.

49. As part of the Auxiliary Aids and Services Assessment, the Qualified Specialist will consult with the Agency ADA Coordinator and/or the Facility ADA Coordinator in the facility where the Deaf or Hard of Hearing inmate is currently housed, or in the case of incoming inmates, will be housed, as to any specific limitations relevant to the Assessment. As part of the Auxiliary Aids and Services Assessment, the Qualified Specialists will consult with the Deaf or Hard of Hearing inmate as to their needs and preferences for communication.

50. Based on the Auxiliary Aids and Services Assessment, the Qualified Specialists shall make and memorialize a determination, as to each Deaf and Hard of Hearing inmate, of the specific Auxiliary Aids and/or Services the inmate needs to communicate effectively (including whether hearing aids, Qualified Interpreters, or other specific aids and services are needed) in at least each of the following prison settings/environments: (a) disciplinary investigations and proceedings; (b) grievance preparation and proceedings; (c) interviews with Internal Affairs or other investigators; (d) interviews or proceedings relating to placement in or removal from protective custody; (e) safety alerts; (f) medical care and appointments, including dental, vision,

audiological, mental health care and appointments, including individual and group therapy or counseling sessions; (g) regular daily environments, such as halls, meal rooms, gyms, and recreational settings; (h) pre-release meetings, including pre-release parole meetings; (i) transfer and classification meetings; (j) meetings with Agency or Facility ADA Coordinator to discuss Auxiliary Aids and Services; (k) library services; (l) educational programs and testing; and (m) vocational, religious, and any other programs and services (and benefits) offered by IDOC to inmates at the facility in which the inmate is incarcerated.

51. The determinations of the Qualified Specialists concerning the Auxiliary Aids and Services that each Deaf and Hard of Hearing inmate requires to communicate effectively in various prison settings shall be followed and implemented for each inmate unless the IDOC has documented that such Auxiliary Aids and Services constitute an “undue financial burden” on IDOC and/or present a clear and present safety and/or security concern that cannot be addressed in any manner except by the denial of the Auxiliary Aids and Services, and IDOC provides the best alternative means of accommodating the needs of the Deaf or Hard of Hearing inmate to effectively communicate that do not implicate the identified security concern. For purposes of this provision, implementing an Auxiliary Aid or Service constitutes an “undue financial burden” when IDOC can meet its burden of showing an undue financial burden under applicable law, including 28 C.F.R. § 35.164, that the determination of an undue financial burden was made by the head of IDOC or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and was accompanied by a written statement of the reasons for reaching that conclusion. Also, if an action required to comply with this Agreement is denied solely due to an undue financial burden, IDOC shall take other action that would not result

in such a burden but would nevertheless ensure that, to the maximum extent possible, individuals who are deaf or hard of hearing receive the benefits or services provided by IDOC.

52. The Qualified Specialists will apply the following principles in making the Auxiliary Aids and Services Assessment:

- a. In determining whether a Deaf or Hard of Hearing inmate should be provided hearing aids in any of the foregoing settings/environments, Qualified Specialists shall defer to and accept the findings in the Audiology Report.
- b. If, based on the Audiological Evaluation and Audiology Report, the Qualified Specialist determines that two hearing aids should be provided to any Deaf or Hard of Hearing inmate, then two hearing aids, not one, shall be provided. If the Qualified Specialist determines that one hearing aid should be provided, then one hearing aid, not zero, shall be provided for the ear needing the hearing aid, subject to the conditions in Paragraph 51 of this Agreement.
- c. If the Qualified Specialist determines that a Deaf or Hard of Hearing inmate's primary language is American Sign Language ("ASL"), there is a presumption that the inmate requires an ASL interpreter for High Stakes Interactions.
- d. If the Qualified Specialist determines that a Deaf or Hard of Hearing inmate's primary language is ASL, then there is a presumption that the inmate requires an ASL interpreter for religious services.

- e. Preference for a particular Auxiliary Aid or Service by a Deaf and Hard of Hearing inmate shall be given Primary Consideration.

53. The results of Auxiliary Aids and Services Assessments for each inmate, including the determinations outlined in Paragraph 50 above, shall be documented in the inmate's Communication Plan, in a form attached as Exhibit A to this Agreement. Each inmate's Communication Plan will be placed in the inmate's medical file and on the centralized database referred to herein, and a copy will be provided to the inmate.

#### **VIII. AUXILIARY AIDS AND SERVICES PRIOR TO THE AUXILIARY AIDS AND SERVICES ASSESSMENT**

54. The Parties recognize that in many circumstances, Deaf and Hard of Hearing inmates require access to Auxiliary Aids and Services prior to IDOC's completion of the Auxiliary Aids and Services Assessment.

55. Therefore, prior to the completion of the Auxiliary Aids and Services Assessment for an inmate, IDOC will provide the inmate with a preliminary accommodation if: (a) an inmate has requested an accommodation; (b) it is apparent to IDOC staff that an inmate requires assistance due to being Deaf or Hard of Hearing; and (c) it is feasible for IDOC to provide such accommodation. In such cases, IDOC shall provide the accommodation requested by the inmate until the Auxiliary Aids and Services Assessment has been completed.

56. As set forth further in this Agreement, it is generally considered feasible to provide the following Auxiliary Aids and Services: hearing aids, batteries/maintenance of existing hearing aids or other devices, Qualified Interpreters, VRI, and accessible telecommunications (such as TTY and videophones/VRS).

57. IDOC will designate at least one (1) employee at each intake facility to serve as the Facility ADA Coordinator responsible for ensuring that Class Members receive the Auxiliary Aids and Services necessary for effective communication for access to programs and services requested prior to the completing of the Auxiliary Aids and Services Assessment.

58. All IDOC personnel who interface with inmates during the Intake process will receive training on responding to requests for Auxiliary Aids and Services.

59. Nothing in this Section precludes IDOC from expediting the time frame for performing the Auxiliary Aids and Services Assessment.

**IX. PROVISION AND MAINTENANCE OF AUXILIARY AIDS AND SERVICES TO DEAF AND HARD OF HEARING INMATES AND IMPLEMENTATION OF COMMUNICATION PLAN**

60. Subject to Paragraph 65 below, promptly following completion of an inmate's Auxiliary Aids and Services Assessment, IDOC will provide the inmate, at no cost to the inmate, the Auxiliary Aids and Services provided for in the inmate's Communication Plan.

61. IDOC shall exercise reasonable efforts to secure, in a timely manner, hearing aids for inmates whose Auxiliary Aids and Services Assessments indicate they should be provided a hearing aid or hearing aids.

62. IDOC shall keep an adequate supply of readily available hearing aid batteries so that hearing aid batteries can be replaced promptly upon a need for new batteries; hearing aid batteries shall be replaced within forty-eight (48) hours after an inmate notifies IDOC of the need for new batteries.

63. If an inmate's hearing aid is broken, IDOC shall exercise reasonable efforts to repair the hearing aid in a timely manner. IDOC must evaluate whether any additional Auxiliary Aids and Services are needed during the time the inmate is without a hearing aid.



64. The information contained in the inmate's approved Auxiliary Aids and Services Assessment concerning the Auxiliary Aids and Services the inmate requires to communicate effectively shall be made available to whoever is responsible for providing the inmate Auxiliary Aids and Services, such as counselors; doctors and other medical personnel; personnel communicating with the inmate concerning grievances, disciplinary proceedings, protective custody matters, pre-release and meetings, and transfer or classification meetings; and personnel communicating with the inmate concerning educational and vocational programs and services and library services.

65. IDOC may deny an inmate an Auxiliary Aid or Service provided for in the inmate's Communication Plan only if the Deaf or Hard of Hearing inmate refuses the Auxiliary Aid or Service, if IDOC has a clear and present safety and/or security concern that cannot be addressed in any manner other than by the denial of the Auxiliary Aid or Service, or the acquisition of the Auxiliary Aid or Service would result in an undue financial burden as defined in Paragraph 51 and consistent with the law (including 28 C.F.R. § 35.164), and IDOC provides the next best alternative means of accommodating the needs of the Deaf or Hard of Hearing inmate for access to the programs and services that do not implicate the identified security concern or present an undue financial burden. Any Auxiliary Aid or Service may be modified, revised, or removed from the Communication Plan by agreement of the inmate and the applicable facility ADA coordinator. If an inmate declines an Auxiliary Aid or Service set out in the inmate's Communication Plan, IDOC will provide the inmate a document advising the inmate of the right to such Auxiliary Aid or Service and ask the inmate to sign the document. The Auxiliary Aids and Services provided for in the inmate's Communication Plan will be provided without cost to the inmate unless the inmate intentionally damages, alters, trades, traffics with, or loses the accommodation. In such

circumstances, the inmate shall pay the replacement costs of the accommodation, including any postage.

**X. IDOC STAFF TRAINING ON MATTERS REGARDING DEAF AND HARD OF HEARING INMATES**

66. Within one hundred twenty (120) days of the Effective Date, IDOC shall develop materials to be used in the annual ADA training required by IDOC Administrative Directive No. 04.01.111 § H(1), which shall address:

- a. communicating with individuals who are Deaf and Hard of Hearing;
- b. the unique needs and problems encountered by individuals who are Deaf or Hard of Hearing;
- c. identification of various communication needs for inmates who are Deaf and Hard of Hearing;
- d. the proper use and role of Qualified Interpreters;
- e. a policy for hand restraints to be removed so that Deaf and Hard of Hearing inmates can effectively communicate through American Sign Language;
- f. the use of TTYs, Videophones, and other equipment that IDOC facilities must provide under this Settlement Agreement;
- g. the process for Deaf and Hard of Hearing inmates to effectively communicate with IDOC employees during all High Stakes Interactions; and
- h. such other information as relevant to facilitating compliance with this Settlement Agreement.

67. Within one hundred and fifty (150) days of the Effective Date, and on an annual basis thereafter, IDOC will conduct ADA training as required by IDOC Administrative Directive No. 04.01.111 § H(1) using the materials referenced in the preceding paragraph.

68. In addition to the training outlined above, prior to assuming the role of Agency ADA Coordinator or Facility ADA Coordinator, such employees shall receive training on the requirements of this Settlement Agreement, the Americans with Disabilities Act, and the Rehabilitation Act, as well as their specific duties in connection thereof.

## **XI. ORIENTATION**

69. Within 120 days of the Effective Date, IDOC shall provide the following accommodations for Deaf and Hard of Hearing inmates for the inmate orientation program and procedure, including any Statewide and facility-specific orientation programs and procedures:

- a. All written orientation materials including without limitation all orientation manuals, will be drafted in simple and plain English.
- b. All videos used during orientation shall include closed captioning using American Sign Language which has been reviewed for accuracy of the interpretation by the Illinois Deaf and Hard of Hearing Commission or a Qualified Interpreter.
- c. All orientation content communicated by video shall be interpreted into American Sign Language. Prior to their use, all materials translated into American Sign Language must be approved by a Qualified Interpreter or a qualified linguist proficient in both ASL and English to assess the accuracy of the interpretation.

- d. For all inmates attending orientation who IDOC has reason to believe are or may be Deaf or Hard of Hearing, IDOC shall meet with the inmate in a separate, subsequent orientation session to go over all orientation content provided orally at the initial orientation session. If the inmate communicates through American Sign Language, then during the second, separate orientation session, IDOC shall provide a Qualified Interpreter to assist the inmate in understanding any orientation content provided orally.
- e. IDOC shall reserve the first row of seats during the orientation for inmates who are disabled.

## **XII. COMMUNICATION DEVICES/TECHNOLOGIES FOR DEAF AND HARD OF HEARING INMATES**

70. Within ninety (90) days of the Effective Date, except for subsections (c) and (d) below which contain their own time frames, IDOC will make the following communication technologies available at any facility that houses a Deaf or Hard of Hearing inmate:

- a. Video Remote Interpreting (“VRI”): All facilities which house a Deaf or Hard of Hearing inmate for whom sign language interpretation is necessary for effective communication shall have VRI available for communication regarding medical issues. The VRI equipment shall be kept in good working condition at all times and, if broken, shall be fixed, or replaced if necessary, as soon as practicable. The VRI shall comport with 28 C.F.R. 35.160(d).
- b. Teletypewriter (“TTY”): All facilities which house a Deaf or Hard of Hearing inmate shall provide access to at least two TTY units or equivalent technology. IDOC shall enable all such equipment to access publicly

available relay service phone numbers including, but not limited to, 711 and 1-800 numbers. Such equipment shall be kept in good working condition at all times (subject to normal wear and tear and the intentional damaging of the equipment outside the control of IDOC) and if the equipment breaks, it shall be fixed or replaced as soon as practicable. Deaf and Hard of Hearing inmates shall have three times the amount of time to use TTY equipment as non-Deaf and Hard of Hearing inmates who use traditional voice telephones, and the Deaf and Hard of Hearing inmates will be informed of such additional time for TTY usage.

- c. Videophones/VRS: Within 6 months of the Effective Date, all facilities which house a Deaf or Hard of Hearing inmate who communicates primarily through ASL shall provide access to at least one Videophone/VRS. IDOC will ensure that all Videophones/VRS systems are able to call other Videophone/VRS services, which may require the use of 1-800 numbers. Videophones/VRS systems shall be designed to allow voice carry-over relay. The Videophone/VRS equipment shall be kept in good working condition at all times (subject to normal wear and tear and the intentional damaging of the equipment outside the control of IDOC), and if broken, shall be repaired or replaced as soon as practicable. Deaf and Hard of Hearing inmates shall have three times the amount of time to use videophones/VRS equipment than non-Deaf and Hard of Hearing inmates who use traditional voice telephones, and the Deaf and Hard of Hearing inmates will be informed of such additional time for such usage.



- d. Amplified Telephones: Within nine months of the Effective Date, all facilities which house a Deaf or Hard of Hearing inmate shall provide access to at least two telephones which allow amplification to at least 55 decibels. These amplified telephones shall be kept in good working condition at all times (subject to normal wear and tear and the intentional damaging of the equipment outside the control of IDOC), and if broken, shall be repaired or replaced as soon as practicable.
- e. Rates paid for use of telecommunications: IDOC shall ensure that Deaf and Hard of Hearing inmates pay no more than other inmates in the making and receiving of telephone calls regardless of the means of the call.

71. The list of technological equipment in this section is not exhaustive. IDOC agrees to keep abreast of evolving technology and to add additional equipment to reflect technological advances, as warranted and subject to financial considerations.

72. Deaf and Hard of Hearing inmates shall have access to the technological equipment during the same times of day and with no greater restrictions, limitations, or access than those placed on non-Deaf or Hard of Hearing inmates who use regular telephone equipment, except that in some facilities where communication equipment is not located in the cell houses, IDOC shall grant appointments to use the equipment the same day or, at the latest, before 5:00 p.m. the following day, provided that inmates may only make a request for such appointments during the time when non-Deaf or Hard of Hearing inmates have access to regular telephone equipment.

### **XIII. TELEVISION FOR DEAF AND HARD OF HEARING INMATES**

73. Within one hundred eighty (180) days of the Effective Date, IDOC will ensure that all audio-visual media already owned shall display open or closed captioning, and any new audio-visual media purchased for inmate use in IDOC facilities shall support open or closed captioning.

74. New televisions purchased by IDOC for inmate use shall support open or closed captioning.

75. Movies shown through the IDOC system will include either open or closed captioning. Any television in a common area of a facility that houses Deaf and Hard of Hearing inmates must be set so that the captioning is turned on at all times.

76. IDOC shall permit Deaf and Hard of Hearing inmates to purchase televisions which support open or closed captioning with the inmate's own funds to the same extent that non-Deaf and Hard of Hearing inmates are allowed to purchase televisions. In the event that the closed captioning feature contained on televisions purchased through a facility Commissary malfunctions, IDOC personnel will work with the Deaf or Hard of Hearing inmate to address and resolve the problem as soon as practicable.

77. IDOC shall provide Deaf and Hard of Hearing inmates the opportunity to use (at no cost to them) and possess headphones that fit over the ears (compared to ear buds) to allow them to hear television programming without disturbing other inmates, if such headphones are listed on the inmate's Communication Plan. Such headphones become the property of the inmate to whom they are provided, and if the inmate is transferred to another facility, the headphones will be accepted for use by the inmate at the new facility unless the inmate's use of the headphones at the new facility presents safety or security concerns. If the headphones break, and it is not the fault of the inmate, or it is because of normal wear and tear, IDOC shall repair or replace the

headphones as soon as practicable. If such over-the-ear headphones are insufficient for the inmate, other accessories, such as in-line amplifiers or equalizers shall be considered.

#### **XIV. VISUAL AND TACTILE ALERT NOTIFICATIONS FOR DEAF AND HARD OF HEARING INMATES**

78. Beginning shortly after the Effective Date and continuing thereafter IDOC will begin making reasonable efforts to provide, and no later than one hundred eighty (180) days of the Effective Date IDOC shall provide Deaf and Hard of Hearing inmates with a safe and effective tactile notification system that will advise them of events such as the arrival of visitors, commencement of meals, showers, yard time, medical appointments, evacuations, and emergencies. IDOC shall ensure that visual or tactile notification to all Deaf and Hard of Hearing inmates occurs any time a “warning shot” is fired or inmates are ordered to lie on the ground. Deaf and Hard of Hearing inmates will be notified and trained regarding the notification system(s) in use by the IDOC.

#### **XV. EQUAL ACCESS TO PRISON EMPLOYMENT**

79. IDOC shall not deny an employment opportunity to an otherwise qualified Deaf or Hard of Hearing inmate unless, after conducting an individualized assessment, including consultation with the inmate, it is determined that the Deaf or Hard of Hearing inmate cannot perform the essential functions of the employment opportunity with or without a reasonable accommodation.

#### **XVI. HAND RESTRAINTS REGARDING DEAF AND HARD OF HEARING INMATES**

80. Within sixty (60) days of the Effective Date, IDOC shall implement a policy relating to the removal of handcuffs of Deaf and Hard of Hearing inmates when they are communicating through American Sign Language.

81. Deaf and Hard of Hearing individuals using TTY machines or Videophones shall also be permitted to use the equipment without hand restraints.

#### **XVII. FACILITY AND CELL ASSIGNMENTS AND TRANSFERS OF DEAF AND HARD OF HEARING INMATES**

82. A Deaf or Hard of Hearing inmate may not be transferred solely because of the inmate's Deaf or Hard of Hearing status to a higher security prison, or to a prison which does not offer comparable programming to the inmate's current parent facility.

83. If a Deaf or Hard of Hearing inmate requests to be housed with another Deaf or Hard of Hearing inmate, IDOC shall consider such request.

#### **XVIII. CREATION AND DISSEMINATION OF MATERIALS MEMORIALIZING DEAF AND HARD OF HEARING INMATES' RIGHTS**

84. Within one hundred twenty (120) days of the Effective Date, IDOC will update, each facility's Orientation Manual to include information about the rights of Deaf and Hard of Hearing inmates, as guaranteed by this Settlement Agreement, along with the services available to them (hereinafter "rights materials").

85. IDOC will provide current Deaf and Hard of Hearing inmates, and any future Deaf and Hard of Hearing inmates, with a new Orientation Manual, inclusive of rights materials.

#### **XIX. MONITORING AND REPORTING**

86. The Court, with the assistance of Class Counsel, shall act as a monitor ("Monitor") concerning compliance with this Settlement Agreement.

87. In the role of Monitor, the Court shall receive and analyze information regarding IDOC's compliance with the Settlement Agreement, assess and make findings regarding IDOC's compliance, and enter appropriate orders to ensure both IDOC's compliance and adequate monitoring of IDOC's compliance.

88. In assisting the Court in its role as Monitor, Class Counsel shall receive and analyze information provided by IDOC as described herein, monitor matters relating to Deaf and Hard of Hearing inmates (via such avenues as inmate grievances, inmate interviews, and prison site visits), conduct fact investigation as appropriate, identify actual areas of noncompliance with the Settlement Agreement, attempt resolution of compliance issues with IDOC without Court intervention, make the Court aware of issues that may merit the Court's attention, and move for appropriate action by the Court in the event an issue cannot be resolved without Court intervention. Class Counsel may request that IDOC provide documents or other information reasonably related to the review and evaluation of IDOC's compliance with the Settlement Agreement; should IDOC refuse to provide such documents or information, the Court may determine whether such documents or information should be provided.

89. In addition to any other information requested by the Court concerning IDOC's compliance with the Settlement Agreement, beginning one-hundred twenty (120) days following the Effective Date, and every one-hundred twenty (120) days thereafter, IDOC shall provide the Court and Class Counsel with a report, generated at IDOC's expense and publicly filed (except that, as indicated below, certain elements of the report may be filed under seal in order to protect the security of IDOC facilities and the medical privacy of IDOC inmates), which shall include the following elements:

a. Implementation of Settlement Generally

- (i) a report as to the status of implementation of each of the provisions of this Settlement Agreement, which addresses, in separate sections for each of Sections IV through XIX of this Agreement, the factual information showing whether and how IDOC has implemented the



provisions in each section, including the documents and information set forth in more detail below;

b. Deaf and Hard of Hearing Inmates

- (i) a listing, to be updated as needed with each successive report, of all inmates identified as Deaf or Hard of Hearing and the location where each such inmate is housed (may be filed under seal);

c. Hearing Screenings:

- (i) a copy of any policy or procedure adopted pursuant to Paragraphs 32, 34 and 36 of this Agreement, and the date(s) on which such policies and procedures were implemented;
- (ii) a report of: (a) the number of inmates who since the date of this Agreement have gone through Intake Physical Examination; (b) the number of such inmates who have received a Hearing Screening; and (c) if applicable, a description of the reasons why any inmates did not receive a Hearing Screening;
- (iii) a report of: (a) the number of inmates who since the date of this Agreement have gone through a periodic physical examination; (b) the number of such inmates who have received a Hearing Screening; and (c) if applicable, a description of the reasons why any inmates did not receive a hearing screening;
- (iv) a report of: (a) the names of the inmates who since the date of this Agreement requested a Hearing Screening; (b) whether each such inmate received the requested Hearing Screening; and (c) if

applicable, the reasons why the inmate did not receive the requested Hearing Screening (may be filed under seal);

d. Audiological Examinations:

(i) a report listing each inmate who, based on a Hearing Screening after the date of this Agreement, was found to require an Audiological Evaluation, and a copy of any reports of any such inmate's Hearing Screening(s) (may be filed under seal);

(ii) a report of whether each such inmate who, based on a Hearing Screening after the date of this Agreement, was found to require an Audiological Evaluation, received the Audiological Evaluation; and, if applicable, the reasons why the inmate did not receive the Audiological Evaluation (may be filed under seal);

(iii) a report of the Audiological Evaluations of each inmate who received an Audiological Evaluation since the date of this Agreement, and a copy of the reports of such Audiological Evaluations (may be filed under seal);

e. Qualified Specialists, Auxiliary Aids and Services Assessments, and Communication Plans:

(i) a description of facts showing whether and how IDOC has implemented the requirements in Paragraphs 45-59 of this Agreement;

(ii) a report of the names and hire dates of any individuals serving the IDOC as Qualified Specialists, or Qualified Interpreters;

- (iii) a copy of the written record of any Auxiliary Aids and Services Assessments provided to any Deaf or Hard of Hearing inmate (may be filed under seal);
- (iv) a copy of all Communication Plans for Deaf and Hard of Hearing inmates completed or updated during the relevant time period (may be filed under seal);
- (v) a report of whether determinations made by Qualified Specialists as set out in any Communication Plans are being implemented and, if applicable, a description of the instances in which determinations made by Qualified Specialists have not been implemented, and the reasons why (may be filed under seal);

f. Deaf and Hard of Hearing Inmate Grievances:

- (i) a copy of all grievances filed after the date of this Agreement alleging facts that, if true, would be violations of this Settlement Agreement (may be filed under seal);
- (ii) a copy of any responses to such grievances and a description of the resolution of such grievances (may be filed under seal);

g. Deaf and Hard of Hearing Centralized Database:

- (i) a report describing the implementation of any centralized database required pursuant to Paragraphs 39-42 of this Agreement and the date(s) that such database became effective and operational to meet the requirements in Paragraphs 39-42;

h. Orientation:

- (i) a description of facts showing whether and how IDOC has implemented Paragraph 69 of this Agreement;
- (ii) a copy of the facility inmate orientation manuals implemented pursuant to this Settlement Agreement during the current reporting period, and the date(s) upon which such manuals became effective;

i. ADA Training:

- (i) a report describing facts showing whether and how IDOC has implemented the requirements in Paragraphs 66-68 of the Agreement;
- (ii) a copy of all ADA training materials implemented by IDOC pursuant to this Settlement Agreement, and the date(s) upon which such materials became effective;
- (iii) a copy of all policies and procedures regarding IDOC ADA training created or updated after the date of this Settlement Agreement;

j. ADA Coordinators:

- (i) a list of ADA coordinators at each facility and the Agency ADA Coordinator;

k. Visual/Tactile Notification Systems:

- (i) a report describing any visual or tactile notification system implemented, the date(s) upon which such systems were implemented, and the method by which Deaf and Hard of Hearing Inmates have been notified of any such system(s);

- l. Communication Devices and Technologies:
  - (i) a report of facts describing whether and how IDOC has implemented the requirements in Paragraph 70-79 of this Agreement;
  - (ii) data showing Deaf and Hard of Hearing inmate's usage of communication services including TTY and videophones/VRS;
- m. Employment Opportunities:
  - (i) a description of any instance in which any Deaf or Hard of Hearing inmate was denied an employment opportunity (may be filed under seal);
- n. Identification Cards:
  - (i) a list of inmates who after the date of the Settlement Agreement received an Identification Card indicating their hearing issue;
- o. Hand Restraints and Cell Assignments:
  - (i) a copy of all policies and procedures relating to the implementation of Paragraphs 80-81 of this Agreement, and a description of the date(s) on which such policies and procedures were implemented;
  - (ii) a description of facts showing whether and how IDOC has implemented Paragraphs 80-81 of the Agreement;
- p. Interpreters:
  - (i) a record showing interpreter services provided after the date of the Agreement, which includes the inmate for whom each interpreting service was provided; the date the service was provided; the



reason/event for which the service was provided; and the name of the interpreter;

q. Annual Compliance Reports:

- (i) copies of all annual compliance reports relating to Deaf and Hard of Hearing inmates created pursuant to IDOC Administrative Directive No. 04.01.111 § II(G)(4)(d).

90. Materials and information provided in any report made pursuant to Paragraph 89 do not need to be re-supplied in subsequent reports; only new information since the date of the last report must be provided. However, data and incidents subject to prior reports must be updated with current information at the time of any report. All reports submitted by IDOC pursuant to this Agreement are for the sole purpose of determining compliance with this agreement.

91. Beginning one-hundred-fifty (150) days following the Effective Date, and every one-hundred-twenty (120) days thereafter, or as otherwise scheduled by the Court, the Court shall conduct a hearing with IDOC counsel and Class Counsel to discuss issues relating to IDOC's compliance with this Settlement Agreement, including: the information generated in the compliance reports outlined above and any further actions that need to be taken by the Court or the Parties. The Court may schedule other hearings as well, as the Court deems fit, to deal with issues as they arise relating to the monitoring and enforcement of this Agreement.

## **XX. COURT'S RESOLUTION OF ISSUES OF NON-COMPLIANCE**

92. If Class Counsel believes that IDOC may be in violation of the Settlement Agreement, then Class Counsel may investigate and bring any motion to the Court's attention regarding any such potential non-compliance. Consistent with the Federal Rules of Civil Procedure and the Local Rules for the Northern District of Illinois, Class Counsel and IDOC

counsel shall meet and confer and attempt to resolve any issues of potential non-compliance prior to such issues being the subject of any motion with the Court. The Parties are required to negotiate through this process in good faith.

93. If after a hearing the Court finds that IDOC has been in substantial non-compliance with the Settlement Agreement, then the Court has the power to enter, and shall enter, whatever orders are necessary to ensure compliance with the terms of the Settlement Agreement, including ordering equitable or injunctive relief such as requiring IDOC to take actions to become compliant with the terms of this Settlement Agreement. The Court also may award reasonable attorney's fees for any work expended by Class Counsel in investigating and litigating such non-compliance. If the Court does not make a finding of non-compliance, Class Counsel will not be entitled to fees and will not seek them.

94. For the Court to have the power to enter orders necessary to ensure compliance with the terms of this Settlement pursuant to Paragraph 93 and the other provisions of this Settlement Agreement, the Court must simply find that there has been substantial non-compliance with the Settlement Agreement, and need not make any additional findings that the non-compliance with the terms of the Settlement Agreement (or the conduct by IDOC constituting or resulting in non-compliance with the Settlement Agreement) constitutes a violation of federal law or is the result of deliberate indifference. "Substantial non-compliance" as used here means acts or omissions which do not meet the requirements of a particular provision of this Settlement Agreement and have a material effect on the ability of a Party to meet the goals and objectives of the relevant provision. In determining whether particular acts or omissions constitute "substantial non-compliance," the Court must consider, at a minimum, the following factors: the nature of the alleged non-compliance, the extent to which the alleged non-compliance deviates from the

particular settlement terms, such as the number of facilities or inmates affected, the length of any delay in implementing a particular provision in the time allotted under the Agreement, the duration of the alleged non-compliance, and the extent to which the alleged non-compliance has a material effect on the rights of deaf and hard of hearing inmates or the goals and objectives of this Settlement Agreement. No finding of any particular intent – such as deliberate indifference, a lack of diligence, or intentional violation of the Settlement Agreement – is required for a determination of “substantial non-compliance;” however, in fashioning an appropriate remedy for any substantial non-compliance, the Court may consider intent, including any diligence or lack thereof in causing or avoiding any “substantial non-compliance” and whether efforts have been made to cure any “substantial non-compliance.” Neither side will take any position that is contrary to the enforcement terms agreed to herein during the court’s supervision of IDOC’s implementation of the terms of this Settlement Agreement.

## **XXI. DELIVERY OF INFORMATION TO CLASS COUNSEL**

95. Delivery of information to Class Counsel pursuant to this Settlement Agreement shall be made to: Equip for Equality, Attn.: Barry C. Taylor, 20 North Michigan Avenue, Suite 300, Chicago, Illinois 60602; Winston & Strawn LLP, Attn.: Robert L. Michels, 35 W. Wacker Drive, Chicago, Illinois 60601; Alan Mills, Uptown People’s Law Center, 413 N. Sheridan Rd., Chicago, IL, 60640; and Howard A. Rosenblum, National Association of the Deaf, 8630 Fenton Street, Suite 820, Silver Spring, Maryland 20910. Delivery through electronic means, such as through email or electronic filing with the Court, is acceptable.

## **XXII. NOTICE**

96. IDOC shall work with Class Counsel to provide notice of the proposed settlement to all Class Members. The Notice shall be in the form of Exhibit B hereto.

### **XXIII. ATTORNEYS' FEES AND COSTS**

97. In full settlement of all attorneys' fees incurred in connection with the Litigation, IDOC shall pay to Class Counsel the amount of \$1,500,000.00 ("Fee Payment"). With respect to the first half of this Fee Payment (\$750,000.00), IDOC will voucher that amount (i.e. submit that amount to the Illinois Office of the Comptroller for payment) by August 1, 2018, if all of the following three conditions (collectively, the "Three Voucher Conditions") have been met by June 30, 2018: (i) this Settlement Agreement is fully executed; (ii) the Court approves this Settlement Agreement; and (iii) all paperwork that is necessary for the vouchering of this half of the amount is submitted to IDOC. With respect to the second half of the Fee Payment, IDOC will voucher that amount by August 1, 2018, if by June 30, 2018 the Three Voucher Conditions are met and IDOC has received its full requested supplemental appropriation for Fiscal Year 2018. If the Three Voucher Conditions are not met by June 30th for the first half of the Fee Payment, then IDOC will voucher the entire amount (both halves) once the Voucher Conditions have been met and within 30 days of when the Illinois General Assembly fully appropriates a full Fiscal Year 2019 budget and the Governor authorizes the funds to IDOC for the payment. The date of the actual payment of any amount that IDOC vouchers is subject to the authority of the Illinois Comptroller.

98. Nothing in this Section precludes Class Counsel from seeking reasonable attorneys' fees pursuant to Paragraphs 92-93 above.

### **XXIV. STIPULATION PURSUANT TO THE PRISON LITIGATION REFORM ACT, 18 U.S.C. §3626**

99. For purposes of this Settlement Agreement only and in order to settle this matter, the parties agree and represent that this Settlement Agreement complies in all respects with the provisions of 18 U.S.C. 3626(a).

100. The parties agree and represent that the prospective relief specifically contained in this Settlement Agreement are narrowly drawn, extend no further than necessary, are the least intrusive means necessary to address the Plaintiffs' allegations, and are not intended to have an adverse impact on public safety or the operation of a criminal justice system. The parties agree to file an agreed motion asking the Court, as part of its evaluation of the fairness of the Settlement Agreement, to enter an order finding that the provisions of the Settlement Agreement are narrowly drawn, extend no further than necessary to address the violations of federal rights alleged by Plaintiffs, are the least intrusive means necessary to address those alleged violations, and are not intended to have an adverse impact on public safety or the operation of a criminal justice system.

#### **XXV. MODIFICATION**

101. The terms of this Settlement Agreement may be modified only by the Court upon written agreement by the Parties and the Office of the Illinois Attorney General.

#### **XXVI. JUDICIAL RETENTION OF JURISDICTION OF THIS MATTER**

102. The Court shall retain jurisdiction to oversee, supervise, and enforce the terms and conditions of this Settlement Agreement, to resolve disputes arising out of or relating to this Settlement Agreement, and for such other actions as may be necessary or appropriate for execution, construction, or implementation of this Settlement Agreement, as limited by the Termination provisions below.

103. The Parties and the Court shall not take any action to remove, challenge or undermine the Court's jurisdiction over this matter, including to interpret and enforce the provisions of this Settlement Agreement, prior to the Termination of this Settlement Agreement per the terms outlined herein. If for any reason the Court were to lose or decline to assert



jurisdiction over this matter consistent with the terms of this Settlement Agreement, Plaintiffs shall have the right to proceed with this action and fully litigate their claims.

## **XXII. TERMINATION OF JURISDICTION/SETTLEMENT COMPLETION**

104. The Court shall retain such jurisdiction over this matter, including to interpret and enforce this Settlement Agreement, and enter appropriate orders requiring compliance with the Agreement, for not less than two years following the Effective Date. If the Court finds that, during the two years following the Effective Date, IDOC has failed to show that it is in substantial compliance with any portion of this Settlement Agreement, then the Court will extend the period of its jurisdiction to supervise and enforce any such portion of this Settlement Agreement, until IDOC shows it has achieved substantial compliance, for a period of time not to exceed two additional years. Subject to the provisions in Paragraph 107, beginning two years after the Effective Date, the Court's jurisdiction shall terminate with respect to any and all provisions of this Settlement Agreement with which the Court has found IDOC in substantial compliance.

105. Subject to the provisions in Paragraph 103 allowing Plaintiffs to proceed with their claims in certain circumstances, the Class, and each member thereof, agrees to release, and hereby releases and forever discharges the Defendant and the State of Illinois, their agents, former and present employees, successors, heirs and assigns and all other persons ("Releasees") from all actions, claims, demands, suits, causes of action, controversies, and disputes seeking equitable relief (but not claims, demands, suits, causes of action, controversies, or disputes for damages) and any related costs and expenses of such released claims, demands, suits, causes of action, controversies, and disputes, which arose or could have arisen from the facts alleged in or claims made in this Litigation, and which the Class, and each member thereof, owns, has or may have

against the Releasees, whether known or unknown, from the beginning of time until the Effective Date.

106. No promise has been made to pay or give the individual representatives of the Class, or any Class Member, any greater or further consideration other than as stated in this Agreement. All agreements, covenants, representations and warranties, express or implied, oral or written, of the Parties hereto concerning the subject matter of this Agreement are contained in this Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any Party hereto to any other Party concerning the subject matter of this Agreement. All prior and contemporaneous negotiations, possible and alleged agreements, representations, covenants and warranties, between the Parties concerning the subject matter of this Settlement Agreement are merged into this Settlement Agreement. This Agreement contains the entire agreement between the Parties.

107. The Court's jurisdiction shall terminate, and the obligations under this Settlement Agreement shall be complete, consistent with the following procedures:

- a. At any time after two years from the Effective Date, IDOC may make a written request that the Court terminate the Court's jurisdiction and the monitoring and reporting process described herein ("Termination Request"). The request can relate to this entire Settlement Agreement, or any portion thereof.
- b. Following any Termination Request, Plaintiffs, through Class Counsel, shall have not less than sixty (60) days to respond. During those sixty (60) days, Plaintiffs shall have the opportunity to obtain information from IDOC concerning factual issues relevant to the determination of compliance.

Should IDOC not provide reasonably complete and timely information during this period, Plaintiffs may ask the Court to order IDOC to do so, and if the Court grants Plaintiffs' request, the Court shall extend Plaintiffs' time to respond to the Termination Request as appropriate, to allow Plaintiffs to receive sufficient information and evaluate it.

- c. If Plaintiffs oppose the Termination Request, in whole or in part, Plaintiffs must file an objection to the Termination Request within sixty (60) days, or within any longer time frame ordered by the Court.
- d. The Court will grant IDOC's Termination Request and terminate its jurisdiction and the reporting process, if the Court finds that IDOC has shown it has substantially complied with the terms of the Settlement Agreement. The Court may terminate its jurisdiction and the reporting process as it relates to the entirety of this Agreement, or any portion thereof. IDOC shall not be deemed in substantial compliance with the Settlement Agreement (or any portion thereof) if there have been a significant number of violations of provisions of the Settlement Agreement (or any portion thereof).
- e. Termination of the Court's jurisdiction over the Settlement Agreement, in whole or in part, may occur only in the event ordered by the Court, upon a successful Termination Request consistent with the terms of this Agreement.

108. The Settlement Agreement shall remain in effect, and the Court shall retain its jurisdiction over the Settlement Agreement subject to the terms of this Settlement Agreement and

all applicable statutes, Rules of Court, and case law for no more than four (4) years after the Effective Date.

### **XXIII. AGREEMENT TO ENTRY OF SETTLEMENT AGREEMENT**

109. IDOC agrees to advocate for, and not to oppose entry of, this Settlement Agreement by this Court, or to challenge any provision of this Settlement Agreement prior to entry of the Settlement Agreement.

110. The parties agree that, upon acceptance of this Settlement Agreement by the Court, the parties shall consent to proceed before the Magistrate Judge in this matter for the remainder of this litigation. This litigation will not be dismissed, and will remain on the Magistrate Judge's active docket, until the Court's jurisdiction terminates consistent with the terms of this Settlement Agreement.

# **EXHIBIT 28**



State of California

Department of Corrections and Rehabilitation

# Memorandum

Date: July 24, 2023

To: Associate Directors, Division of Adult Institutions  
Wardens  
Americans with Disabilities Act Coordinators

Subject: **REVISED IMPLEMENTATION OF COMMUNICATION ACCESS REAL-TIME TRANSLATION SERVICES FOR DEAF AND HARD OF HEARING INCARCERATED PERSONS**

The purpose of this memorandum is to implement the process for utilization of Communication Access Real-time Translation (CART) services for Incarcerated Persons (IP) who are deaf or hard of hearing. This directive will rescind the existing process detailed in memorandum dated March 6, 2023, titled, "*Revised Utilization of Webex for Real-Time Captioning during Due Process Events for Hearing-Impaired Inmates.*"

The California Department of Corrections and Rehabilitation (CDCR) has an obligation to provide all IPs equal access to programs, services, and activities, as required by state and federal law, including the Americans with Disabilities Act (ADA), and the *Armstrong* and *Clark* Remedial Plans. The ADA guarantees equal opportunity and provides basic civil rights protections for individuals with disabilities in public and private sector services and employment. Equal opportunity for this population includes providing IPs the communication assistance necessary to allow them to understand and participate in programs, services, and activities.

In an effort to utilize evolving technology for IPs who are deaf or hard of hearing, the CDCR identified CART has the ability to provide instantaneous translation of spoken words into visual print display. Each spoken word is streamed in real-time onto a monitor or television screen for the IP to view and read. A contracted CART provider will be facilitating the service remotely via Stream Text by use of a direct telephone line (Refer to Attachment A).

In an effort to provide written communication, staff shall offer the CART service to IPs identified as DPH (permanent hearing impairment, impacting placement), who do not rely on Sign Language Interpreter (SLI), and whose primary or alternate method of effective communication is written notes, during the following encounters:

- Classification Committees
- Administrative Segregation Unit Placement Notice-Administrative Hearings
- Rules Violation Report Hearings
- Biannual Interviews covered by the staff misconduct orders

IPs with verified hearing disabilities (DNH or DPH) shall be able to request CART services through the 1824/Reasonable Accommodation Process (RAP) process which shall be evaluated and

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granted on a case by case basis. Staff shall offer CART unless it can demonstrate that another equally effective means of communication is available.

CART is the approved service to provide real-time captioning for these events. The following institutions have been designated for the initial roll-out of CART:

- Central California Women's Facility
- California Health Care Facility
- California Institution for Men
- California Medical Facility
- California State Prison, Corcoran
- Richard J. Donovan Correctional Facility
- Substance Abuse Treatment Facility
- San Quentin State Prison
- Salinas Valley State Prison
- Wasco State Prison
- North Kern State Prison

The following steps shall be taken by the staff member facilitating the encounter:

- The ADA Coordinator or designee shall interview all DPH IPs who do not rely on SLI, and whose primary or alternate method of effective communication is written notes to determine whether CART is a service the IP is requesting during due process events.
- Staff shall interview an IP who meets the criteria or has been approved via the 1824/RAP process to be offered CART. Staff shall determine whether CART is a service the IP is requesting to be provided during due process events.
- The ADA Coordinator or designee shall ensure the following steps are taken when CART service is approved:
  - The ADA Coordinator or designee shall enter the following information into the non-formulary accommodation/comments section contained in the IPs Strategic Offender Management System (SOMS) record under the DPP Disability/Accommodation (Effective Communication [EC] Chrono): "CART service shall be provided during due process events."
- Staff shall ensure the location being utilized during the encounter has accessibility to a direct outside telephone line during all programming hours, to include weekends and holidays.
- Staff shall ensure CART service is scheduled at minimum of 24 hours in advance of the encounter. Please see Attachment A, which includes step-by-step instructions on scheduling and accessing CART.



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Americans with Disabilities Act Coordinators

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- To ensure accuracy of the transcription, staff shall speak slowly and clearly avoiding the use of acronym's during the encounter. If there are issues during the transcription, such as the transcriber is incorrectly transcribing an acronym or terminology or name, staff should clearly state what needs to be corrected moving forward in the transcription.
- Staff facilitating the encounter shall ensure within SOMS Effective Communication section, the "Other" check box is utilized to document the offering of CART. Within the free text, staff shall document the offering and/or refusal by the IP.
- Upon completion of encounter, the staff member facilitating the event shall ensure a copy of the transcript is provided to records staff, who will subsequently scan into the Electronic Records Management System. Please see Attachment A, which includes instructions on how to retrieve the transcript.
- In the event staff encounter technical issues/inability to schedule a provider, and due process timeframes may be infringed upon, staff may revert to an alternate method of communication as a last option.
- Staff shall ensure due process documentation (i.e. Classification Chrono, Rules Violation Report Hearing, etc.) identifies the reason why CART was not provided, the action taken, and the alternative method of communication provided.

If you are housing an IP who has been identified as meeting the criteria/approved via RAP for CART service and they are not housed at any of the above institutions, the IP shall be interviewed by the ADA Coordinator or designee to determine whether CART is a service being requested. If the IP indicates CART is a requested service, the IP shall be recommended for transfer if they are eligible based on medical and custodial case factors. If they are not eligible for transfer, the ADA Coordinators shall contact local EIS Information Technology to be provided the appropriate equipment (laptops, microphones, and reliable Internet connections) to accommodate the IP.

Each institution shall be responsible for developing a Local Operating Procedure (LOP) to outline the expectations for all staff and managers on this directive while also including the locations with accessibility to this CART function. Each institution shall provide a copy of their LOP within 30 days of this memorandum to the Class Action Management Unit (CAMU) mailbox at [CDCR.CAMU@cdcr.ca.gov](mailto:CDCR.CAMU@cdcr.ca.gov).


Wardens shall communicate this information regarding available CART service to your IP Advisory Council and through Institution Town Halls utilizing CART that have been advertised directly to IPs designated DNH and DPH to ensure awareness to the IP. Institutions may also provide additional education as needed to the IP population, including through written flyers.

All staff custody supervisors and managers shall be trained on the expectations for CART as required during the noted encounters by utilizing the Learning Management System course code

Associate Directors, Division of Adult Institutions  
Wardens  
Americans with Disabilities Act Coordinators  
Page 4

11063728 within 30 days of the date of this memorandum. Institutions shall provide proof of practice to their respective Mission Associate Director.

If you have any questions, please contact Darnell Mebane, Captain, CAMU at (916) 202-5130 or [Darnell.Mebane@cdcr.ca.gov](mailto:Darnell.Mebane@cdcr.ca.gov).

DocuSigned by:  
  
914C404835B04E8...

TAMMY FOSS  
Undersecretary, Operations

Attachment

cc: Jared D. Lozano  
Ron Davis  
Mona D. Houston  
Lourdes White  
Jillian Hernandez  
Timothy Fleshman  
Darnell Mebane  
Megan Roberts

# **EXHIBIT 29**



ksk\_SATFDHPCC1@cdcr.ca.gov's Personal Room

1:36 pm - 2:08 pm Thursday, August 10, 2023 | (UTC-07:00) Pacific Time (US & Canada)

ksk\_SATFDHPCC1@cdcr.ca.gov

WEBVTT

1

ksk\_SATFDHPCC1@cdcr.ca.gov 00:01:17.580 --> 00:01:38.020

So just for staff, the building up with it. No, not floor staff. It'll be supervisory staff because your officers are generally not the ones conducting your due process events. So with an RVR hearing, it's gonna be a lieutenant or at least a sergeant with your committee action. It's gonna be a counselor. Okay, so it'll.

2

ksk\_SATFDHPCC1@cdcr.ca.gov 00:01:38.180 --> 00:01:40.660

Supervisor when you staff in the ball to.

3

ksk\_SATFDHPCC1@cdcr.ca.gov 00:01:43.140 --> 00:01:57.140

As far as you qualifies for this right now, folks that are hearing impaired and require on requirement notes to establish effective communication. There's fourteen of those folks here at seven. So what we're gonna do is.

4

ksk\_SATFDHPCC1@cdcr.ca.gov 00:01:58.660 --> 00:02:18.980

I'm sorry wrong. All right, what we're going to do is I'm gonna get into songs and make entries into those specifically identified people and song so that when the staff member pulls them on the computer, we know that they require services for those of that, right? There's fourteen of those here at seven as far as people that.

5

ksk\_SATFDHPCC1@cdcr.ca.gov 00:02:19.140 --> 00:02:39.460

Automatically qualify we do have inmates that are hearing impaired, but don't currently have written notes as a form of effective communication such as hearing AIDS or speaking loud. Okay, for those people, this may be available to you as well. Okay, you can request that service be made available for you during those student process events.

6

ksk\_SATFDHPCC1@cdcr.ca.gov 00:02:39.540 --> 00:02:45.780

Make that request to me with an eighteen twenty- four and we'll be evaluating those on a case by case basis.

7

ksk\_SATFDHPCC1@cdcr.ca.gov 00:02:49.740 --> 00:03:07.620

Literally everywhere great question. They are in every single housing unit. It's the yellow piece of paper. It's just like a green piece of paper as a six, o- two or agreements, We have the yellow piece of paper they're normally stored right. Next to each other, and that's in eighteen twenty- four, that's how you request a.

8

ksk\_SATFDHPCC1@cdcr.ca.gov 00:03:07.980 --> 00:03:18.380

Ation to access the program service or activity. What's that accommodation reasonable accommodation is if you want one after this, we'll make sure you get one. Okay, well.

9

ksk\_SATFDHPCC1@cdcr.ca.gov 00:03:21.060 --> 00:03:23.860

I did not my.

10

ksk\_SATFDHPCC1@cdcr.ca.gov 00:03:26.180 --> 00:03:30.100

I talked no, but it's hard. I write a text, but.

11

ksk\_SATFDHPCC1@cdcr.ca.gov 00:03:31.460 --> 00:03:42.820

Nobody, do you have a tablet? No, you don't have a tablet, but how long have you been thirteen.

12

ksk\_SATFDHPCC1@cdcr.ca.gov 00:03:44.100 --> 00:04:04.580

Since July of two thousand twenty- three. Okay, we'll reach out to GTL and see about getting your tablet. Okay, so there is one exception to this as, as far as providing us for everyone needs it, and it's due to the scheduling issue, Okay, we do need to schedule with CART service.

13

ksk\_SATFDHPCC1@cdcr.ca.gov 00:04:04.860 --> 00:04:25.060

Twenty- four hours before. So if you are involved in a due process event that doesn't allow for event scheduling such as an asset placement notice, okay, we obviously wouldn't be able to schedule that beforehand and so we would rely on your other forms of effective communication in those cases. Does that make sense?

14

ksk\_SATFDHPCC1@cdcr.ca.gov 00:04:25.700 --> 00:04:33.940

Okay, any other questions? Yes, sir.

15

ksk\_SATFDHPCC1@cdcr.ca.gov 00:04:35.940 --> 00:04:52.700

We developeders the main construments, sometimes I don't understand what you're saying. Okay, sometimes the word something out, but sometimes they may go down to find out.

16

ksk\_SATFDHPCC1@cdcr.ca.gov 00:04:53.860 --> 00:04:57.140

Okay, we're gonna have people actually.

17

ksk\_SATFDHPCC1@cdcr.ca.gov 00:04:59.180 --> 00:05:00.300

Okay.

18

ksk\_SATFDHPCC1@cdcr.ca.gov 00:05:01.540 --> 00:05:22.020

I've worked with that June. So what you're talking about is a notification and that's not a due process event, so we're not gonna have cart services available for you to, to notify you of, of regular things that are going on here throughout the day, if you need help with be.

19

ksk\_SATFDHPCC1@cdcr.ca.gov 00:05:22.660 --> 00:05:40.900

Understanding announcements, okay, we have staff and we have ADA workers that are gonna help you clarify what was said over the loud speaker. Okay, anytime you don't understand. Please ask for help. Okay, it's no problem to, to clarify for anyone. Okay, all right, I have a question.

20

ksk\_SATFDHPCC1@cdcr.ca.gov 00:05:42.500 --> 00:06:02.340

So I was wondering if we had set up the scroll boards some time ago and they, they have not been put to use yet, but why don't we use those for announcements, it would be a lot better than, you know, being confused and having to go ask for clarification. We have the door. Why don't we use, I'm not.

21

ksk\_SATFDHPCC1@cdcr.ca.gov 00:06:02.540 --> 00:06:22.820

Familiar with those. I'm aware that they've been here for some time. The last I heard was that they don't work. Okay, I'm not even sure how we get information into that scroll board to play for you. All right, but, but we can take a look at that. I don't know if I'm planning when weights coming up.

22

ksk\_SATFDHPCC1@cdcr.ca.gov 00:06:23.460 --> 00:06:32.100

I would suggest that this is the question that you're, you're interested in place back, the agenda specifically is about the time.

23

ksk\_SATFDHPCC1@cdcr.ca.gov 00:06:33.060 --> 00:06:54.180

Okay, thank you. So those flyers, those flyers that you're looking at provide a summary of everything. I just said, okay, they're up in your housing units. Now they've been there all week and I want you to keep them and I want you to share this with everybody here. Okay, I want you to be my ambassadors and help.

24

ksk\_SATFDHPCC1@cdcr.ca.gov 00:06:54.820 --> 00:07:07.460

Questions, All right, if you need copies of this, please ask staff, we will make copies so that you can post them up if they come down. Okay, yes, take a job.

25

ksk\_SATFDHPCC1@cdcr.ca.gov 00:07:13.020 --> 00:07:18.220

No, this is not a job. This is just a new service that's available to you.

26

ksk\_SATFDHPCC1@cdcr.ca.gov 00:07:19.780 --> 00:07:40.260

You know, no, it's not, it's just to help you understand what's being said during your RVR hearing or your stuff like that. We had someone on good approach that sure, but it's not just for, if you're in trouble because we have committee actions all the time where we just go over your program, right? And we want you to be able to understand what's being.

27

ksk\_SATFDHPCC1@cdcr.ca.gov 00:07:40.700 --> 00:07:43.020

Committee, okay.

28

ksk\_SATFDHPCC1@cdcr.ca.gov 00:07:45.820 --> 00:07:59.740

Can you see this ever throwing into something that would help these guys from your personal issues. Yeah, communicate with family education and South Bell.

29

ksk\_SATFDHPCC1@cdcr.ca.gov 00:08:01.380 --> 00:08:20.460

I certainly can't say, No, I think the department's working real hard to expand the technology available to us and available to you. I don't want to speak for the department as a whole, but I would anticipate that we continue seeing how we can improve this absolutely.

30

ksk\_SATFDHPCC1@cdcr.ca.gov 00:08:25.700 --> 00:08:42.340

Anything else I have something about PRI. This is a little on top of the do. It's not required really, but for me personally for groups here, I doesn't work. It takes time we have to wait for the interpreter.

31

ksk\_SATFDHPCC1@cdcr.ca.gov 00:08:42.700 --> 00:08:55.740

To and he'll say if they're available or not available, and this happened last two thing, they said there was no available interpreter on the VRI, so we ended up having to cancel, so I'm swiping.

32

ksk\_SATFDHPCC1@cdcr.ca.gov 00:08:57.700 --> 00:09:18.180

You know what you mean? So we're working with all of our groups. Okay, we're setting up a training to be conducted with them next week and we're gonna go over how to properly use those VI- la laptops. Have you get a lot of silly questions about folks who maybe are not very tech savvy and setting up the laptop logging into you count.

33

ksk\_SATFDHPCC1@cdcr.ca.gov 00:09:18.220 --> 00:09:35.940

I did test it myself a week or two ago and it worked perfectly for me, so we're gonna get all those folks together. We're gonna make sure everyone knows how to use it. Okay, continue to attempt to see if you're in person interpreters prior to resort or video.

34

ksk\_SATFDHPCC1@cdcr.ca.gov 00:09:38.020 --> 00:09:57.860

Right, yeah, and I noticed that and I understand when, when you guys are talking about, but, and I have seen it where sometimes people don't know, but then also I know you guys try your best to have in person and I know that bri is second best, but I'm just trying to figure out how to resolve.

35

ksk\_SATFDHPCC1@cdcr.ca.gov 00:09:58.100 --> 00:10:02.620

Because Monday and Tuesday they weren't there. Not not for me.

36

ksk\_SATFDHPCC1@cdcr.ca.gov 00:10:04.820 --> 00:10:06.820

It's going to be working on improvements.

37

ksk\_SATFDHPCC1@cdcr.ca.gov 00:10:08.580 --> 00:10:25.420

All right, guys. I've got my laptop smitched out about as far as it goes what I would like to move the second guys adjust your chairs and get us close to my laptop as you can. I'm gonna show you a Youtube video that demonstrates the live captioning. Okay.

38

ksk\_SATFDHPCC1@cdcr.ca.gov 00:10:26.500 --> 00:10:28.340

What's that.

39

ksk\_SATFDHPCC1@cdcr.ca.gov 00:10:31.220 --> 00:10:34.500

Absolutely, yeah.

40

ksk\_SATFDHPCC1@cdcr.ca.gov 00:10:36.900 --> 00:10:38.500

Yeah, yes.

41

ksk\_SATFDHPCC1@cdcr.ca.gov 00:10:45.060 --> 00:10:46.740

So I'm gonna.

42

ksk\_SATFDHPCC1@cdcr.ca.gov 00:10:48.580 --> 00:10:50.380

I see you guys.

43



ksk\_SATFDHPCC1@cdcr.ca.gov 00:11:04.900 --> 00:11:08.540

All right, folks on the line is my screen sharing right now.

44

ksk\_SATFDHPCC1@cdcr.ca.gov 00:11:12.660 --> 00:11:18.580

The paces of the folks in the group like, I don't see a Youtube video. I probably can.

45

ksk\_SATFDHPCC1@cdcr.ca.gov 00:11:19.620 --> 00:11:25.540

This tab, and then sorry, go ahead. We will share the screen that shows the.

46

ksk\_SATFDHPCC1@cdcr.ca.gov 00:11:29.940 --> 00:11:44.220

Okay, and next I think if it's too much trouble, you can decide us the link separately. We'd want to hold it up to that reason. Yeah, I do want to just minimize and put up the Youtube video, if that's easier. Yeah, I can just forward over that into a click.

47

ksk\_SATFDHPCC1@cdcr.ca.gov 00:11:52.340 --> 00:11:53.460

Yep.

48

ksk\_SATFDHPCC1@cdcr.ca.gov 00:11:55.140 --> 00:11:59.180

I hear that video and then.

49

ksk\_SATFDHPCC1@cdcr.ca.gov 00:12:00.900 --> 00:12:05.660

I think that's working, and I don't see a video, but it does seem like whatever something.

50

ksk\_SATFDHPCC1@cdcr.ca.gov 00:12:08.340 --> 00:12:17.780

Okay, I think you guys can see that. No, that's what I'm talking. I, I can't, but if you guys can, until that it'll be matter.

51

ksk\_SATFDHPCC1@cdcr.ca.gov 00:12:26.820 --> 00:12:36.380

I would just say play the video and we'll share it with the parties afterwards. There we go. Now we see it don't worry. I got it. Well, okay, great, thank you.

52

ksk\_SATFDHPCC1@cdcr.ca.gov 00:12:40.620 --> 00:12:58.180

Communication access real- time translation also important is available to them here. Seek an alternatives over to American language interpreting or ASL or reliance on system listening devices. Cart is an advance and accurate translation method.

53

ksk\_SATFDHPCC1@cdcr.ca.gov 00:12:58.820 --> 00:13:14.220

A human captioner assistant by computer based captioning technology transcribes the dialogue that you represent widely used in a variety of educational professional and personal settings.

54

ksk\_SATFDHPCC1@cdcr.ca.gov 00:13:16.980 --> 00:13:36.580

Here at the University of Washington CART is often used to enhance student's ability to learn in a classroom setting and communicate with instructors, mentors and peers Haddon provides real time word for word translation transcribing each word as it is being spoken. University of Washington. I was part of the first.

55

ksk\_SATFDHPCC1@cdcr.ca.gov 00:13:36.940 --> 00:13:51.740

Academy here, all right. Does it just stack me types that exact word. It needs up to you whether, you know, it or not like you can ask question. What does that mean, or if you do know what that word means your understanding what you're saying.

56

ksk\_SATFDHPCC1@cdcr.ca.gov 00:13:54.500 --> 00:14:13.700

Is you have, or we don't work our word right there in front of you. You're able to understand more and like, have a less a chance of misinterpreting what they're saying part is noted for its accuracy speed and wide variety of practical applicables. These qualities.

57

ksk\_SATFDHPCC1@cdcr.ca.gov 00:14:14.060 --> 00:14:18.020

Users to follow dialogue more efficiently and precisely.

58

ksk\_SATFDHPCC1@cdcr.ca.gov 00:14:23.420 --> 00:14:25.460

Classroom, I guess.

59

ksk\_SATFDHPCC1@cdcr.ca.gov 00:14:28.540 --> 00:14:46.980

Talking to us very happy. I understand my classmat, but now I'm talking about not better or providers to customize their services to accommodate each user's needs and references text fund size and text color can be modified to fit.

60

ksk\_SATFDHPCC1@cdcr.ca.gov 00:14:47.340 --> 00:15:07.460

CARP users prevalence when working in a live setting providers will try to position themselves, but they can barely hear a speaker, like simultaneously watch the transcription they are producing in order to correct any mistakes there are different display options to fit different settings. These include personal computer screens, projection screens.

61

ksk\_SATFDHPCC1@cdcr.ca.gov 00:15:07.580 --> 00:15:15.620

Television monitors and mobile devices, if a part is being used in a group setting a larger display can be very beneficial.

62

ksk\_SATFDHPCC1@cdcr.ca.gov 00:15:17.060 --> 00:15:33.540

In classroom will workplace situations where a user needs to follow and understand complex vocabulary card can be very advantageous in certain settings such as man and science, classrooms, carts, word for word translation is what a useful resource.

63

ksk\_SATFDHPCC1@cdcr.ca.gov 00:16:04.740 --> 00:16:15.780

Can be used in a variety of settings can be flexible according to each user's needs. Art technology allows it to be used in a mobile center such as a tour or site visit.

64

ksk\_SATFDHPCC1@cdcr.ca.gov 00:16:17.220 --> 00:16:24.780

This flexibility enables users to engage a real life situations in which participation might otherwise be challenged.

65

ksk\_SATFDHPCC1@cdcr.ca.gov 00:16:37.700 --> 00:16:42.260

So I know my own fix for that.

66

ksk\_SATFDHPCC1@cdcr.ca.gov 00:16:49.860 --> 00:16:58.300

Upon approval the end of our current session, a written log of the transcription can be sent to you and saved or studying a record keeping purposes.

67

ksk\_SATFDHPCC1@cdcr.ca.gov 00:17:12.260 --> 00:17:30.820

ASL users, there are different ways to utilize cars and other hearing individuals for instructors. If an Asoun interpreter is not available by using card option is to type applies on a laptop computer for the cart provider or your C- mate to both car can also be used in a teleconference.

68

ksk\_SATFDHPCC1@cdcr.ca.gov 00:17:31.500 --> 00:17:51.940

Allowing a user to join a conference call using a remote card provider in this situation, the Carton provider and user will promote the join, the conference call and the user receives a live transcription of the teleconference on their internet enabled. There are other speech to text services, available. Secret is a real time speech to text translation.

69

ksk\_SATFDHPCC1@cdcr.ca.gov 00:17:52.620 --> 00:18:12.420

It uses a meeting for meeting transition system. This allows it to summarize a large amount of information very quickly quite well works in a similar fashion to see if providing meaningful, meaning transcription. Both services

can be useful depending on situation, but you not provide work for word transcription as card dev set automatic speech recognition or ASR.

70

ksk\_SATFDHPCC1@cdcr.ca.gov 00:18:12.500 --> 00:18:32.900

Uses an electronic device to capture speech and then internally translated into text, It promises to become an effective independent translation source, but in the present time variables such as noise pronunciation pitch volume and accents can disrupt the automatic translation process and make the transcript difficult art and other.

71

ksk\_SATFDHPCC1@cdcr.ca.gov 00:18:33.100 --> 00:18:53.380

Similar transcription services provide many benefits including people, communication access independence, or fostering full participation in a variety of settings of students, professionals and others that are deaf and priority can benefit the versatility and comprehension offered by real time transcription services. I think it got caught. I really.

72

ksk\_SATFDHPCC1@cdcr.ca.gov 00:18:54.100 --> 00:18:56.700

Especially even now.

73

ksk\_SATFDHPCC1@cdcr.ca.gov 00:18:58.260 --> 00:19:05.540

Especially when your own class is a target many quickly or it can play out here. Any.

74

ksk\_SATFDHPCC1@cdcr.ca.gov 00:19:07.100 --> 00:19:08.740

Upper top.

75

ksk\_SATFDHPCC1@cdcr.ca.gov 00:19:21.540 --> 00:19:31.020

All right, I'm able to, you know, he acting and be engaged fully whatever to something that's.

76

ksk\_SATFDHPCC1@cdcr.ca.gov 00:19:38.820 --> 00:19:39.940

Okay.

77

ksk\_SATFDHPCC1@cdcr.ca.gov 00:19:42.660 --> 00:19:48.340

Okay, that's the end of the video. I'm going to stop it. We guys can put your chairs backwards.

78

ksk\_SATFDHPCC1@cdcr.ca.gov 00:19:51.060 --> 00:19:52.780

So I'm not sure.

79

ksk\_SATFDHPCC1@cdcr.ca.gov 00:20:09.220 --> 00:20:12.060

All right, any questions about the video.

80

ksk\_SATFDHPCC1@cdcr.ca.gov 00:20:17.620 --> 00:20:19.660

Background Dallas and.

81

ksk\_SATFDHPCC1@cdcr.ca.gov 00:20:23.940 --> 00:20:27.900

Immediately, not yet, not yet.

82

ksk\_SATFDHPCC1@cdcr.ca.gov 00:20:29.060 --> 00:20:46.940

There are some folks that are working on making accessibility features on, on your tablets better or expanding what types of features are available, but that's not specifically related to this, but there is some more going on in that arena right now. Yep.

83

ksk\_SATFDHPCC1@cdcr.ca.gov 00:20:53.660 --> 00:21:07.300

Folks it do use written notes. Is there something that you'd like to use? Yeah, yeah, okay. It's not something that you have to use, but we'll, we'll put it on some for you, so that staff are aware. Yes.

84

ksk\_SATFDHPCC1@cdcr.ca.gov 00:21:11.020 --> 00:21:13.100

Program on the street.

85

ksk\_SATFDHPCC1@cdcr.ca.gov 00:21:15.140 --> 00:21:16.780

I believe so.

86

ksk\_SATFDHPCC1@cdcr.ca.gov 00:21:18.340 --> 00:21:38.820

Oh, personally, I'm not sure if it's available for you, you to use personally on the streets. I do believe it's what I do believe it's an industry standard for proceedings and things like that, but I don't, I'm not sure what's available to an individual on the outside right now in your, in your daily life. I'm not certain.

87

ksk\_SATFDHPCC1@cdcr.ca.gov 00:21:38.820 --> 00:21:59.300

Okay, yes, if someone chooses to use it, what is the time frame them to receive the transcription of wherever they use it for. I'm not certain of that either. I believe it takes twenty- four hours to upload. That's the way Webex was when we were using Webex and.

88

ksk\_SATFDHPCC1@cdcr.ca.gov 00:22:02.100 --> 00:22:19.780



Twenty- four, no, we can give it to you if you don't get it, certainly ask for it via any means you want should be part of the due process. Yeah, so we're enjoying doing like they were running one week or something. No, you don't... you don't have to do any paperwork for this. Not at all.

89

ksk\_SATFDHPCC1@cdcr.ca.gov 00:22:23.620 --> 00:22:40.260

Yeah, house lane or Middy. That's the next app. So it's not gonna be automatically there for you for anything. This is gonna be for RVR hearings committee actions. Okay, ASU, placements and staff misconduct interviews.

90

ksk\_SATFDHPCC1@cdcr.ca.gov 00:22:40.700 --> 00:22:47.380

The biannual, it's OK. We have to have twenty- four hours advance notice to schedule. Okay.

91

ksk\_SATFDHPCC1@cdcr.ca.gov 00:22:53.380 --> 00:23:02.780

Maybe I can go a little bit the zoom and the.

92

ksk\_SATFDHPCC1@cdcr.ca.gov 00:23:04.580 --> 00:23:11.700

I don't even hurry how do people feel the website, but I mean.

93

ksk\_SATFDHPCC1@cdcr.ca.gov 00:23:13.540 --> 00:23:16.260

We everyth on the phone.

94

ksk\_SATFDHPCC1@cdcr.ca.gov 00:23:19.300 --> 00:23:21.700

Oh, we got ABID, but.

95

ksk\_SATFDHPCC1@cdcr.ca.gov 00:23:25.460 --> 00:23:31.980

But it's pretty good. Everybody. I think happened, [REDACTED] is gonna help you with that.

96

ksk\_SATFDHPCC1@cdcr.ca.gov 00:23:34.660 --> 00:23:53.340

One last thing before we close does everyone here know what an operational procedure is. We have hundreds here, it's, it's what our management team creates to communicate with our staff that tells them how to do things. Okay, so I'm creating with.

97

ksk\_SATFDHPCC1@cdcr.ca.gov 00:23:53.860 --> 00:24:14.340

So, I'm, well it's not the type of fifteen, it should, they're local rules. Okay, so I'm creating an operational procedure right now about this about Carp services and it's going to instruct our staff exactly what to do how to use this when, for who, okay, that'll be done in the next couple weeks, right?

98

ksk\_SATFDHPCC1@cdcr.ca.gov 00:24:14.380 --> 00:24:34.820

Simultaneously, we are training all of our staff about this right now, and we're also advertising this to you. OK. this is not gonna be the last time you get a chance to talk to me about it. I'm sure you're gonna come up with more questions as we go as, as time goes. Please reach out to any staff member or field training sergeant and we.

99

ksk\_SATFDHPCC1@cdcr.ca.gov 00:24:35.020 --> 00:24:38.940

Get those questions answered for you. Okay.

100

ksk\_SATFDHPCC1@cdcr.ca.gov 00:24:40.620 --> 00:24:44.500

Any other questions about this? Yes, sir.

101

ksk\_SATFDHPCC1@cdcr.ca.gov 00:24:46.340 --> 00:24:48.940

It's going to be set up for us. Yes.

102

ksk\_SATFDHPCC1@cdcr.ca.gov 00:24:53.380 --> 00:24:55.020

Anything else.

103

ksk\_SATFDHPCC1@cdcr.ca.gov 00:24:58.500 --> 00:25:07.460

Okay, I don't have anything else to deliver for all the folks on the line. Any questions and comments you have which we'll be closed.

104

ksk\_SATFDHPCC1@cdcr.ca.gov 00:25:10.020 --> 00:25:29.220

Hey, [REDACTED], but I open it up to, you know, for an expert or Minux, otherwise we can have conversations, we can mail later. Yeah, thanks [REDACTED] for me if that makes sense to me, I guess just to, for me, I guess the first one is, do you know how they advertising started town Hall.

105

ksk\_SATFDHPCC1@cdcr.ca.gov 00:25:29.380 --> 00:25:47.300

I didn't select the people who are here at this meeting. Yeah, so earlier in the week we sent the flyers out the same fliers that everyone told me now to the housing UNANS and then from these particular meetings, I just select the IOS and I also are identified.

106

ksk\_SATFDHPCC1@cdcr.ca.gov 00:25:49.780 --> 00:26:07.180

Facility who require a written notes now and invited them as well. So those are the four additional people that's in, and that's the same process that you've done, right. Thank you so much. I think that's the only question I have. I don't know if you're eating progress guy.

107

ksk\_SATFDHPCC1@cdcr.ca.gov 00:26:09.020 --> 00:26:19.420

Wanting to make sure I understood how Mr. [REDACTED] for example, was understanding the service being offered, is he following along teams touching.

108

ksk\_SATFDHPCC1@cdcr.ca.gov 00:26:22.020 --> 00:26:24.220

Right now, but looks like he's been.

109

ksk\_SATFDHPCC1@cdcr.ca.gov 00:26:26.300 --> 00:26:33.860

Falling along on Webex records. Okay, I just have to show you everything it shouldn't be an offered. Thank you.

110

ksk\_SATFDHPCC1@cdcr.ca.gov 00:26:39.260 --> 00:26:43.180

Be able to follow them. Do you have any questions for us?

111

ksk\_SATFDHPCC1@cdcr.ca.gov 00:26:51.780 --> 00:26:59.620

You have any questions? No questions you think of anything later be happy to help.

112

ksk\_SATFDHPCC1@cdcr.ca.gov 00:27:00.740 --> 00:27:04.100

Just reach out answer any question to you. Now.

113

ksk\_SATFDHPCC1@cdcr.ca.gov 00:27:06.620 --> 00:27:22.140

With that, I'm prepared to close. Thank you guys. Thank you for inviting us and we appreciate it. Yeah, look forward to have to work on this further and hope that it provides some accommodation services. Thank you. All right, thank you.

114

ksk\_SATFDHPCC1@cdcr.ca.gov 00:27:38.500 --> 00:27:41.220

Oh, I'm gonna question, yes.

115

ksk\_SATFDHPCC1@cdcr.ca.gov 00:27:47.020 --> 00:28:02.660

With brain about that, but I'm wondering if it would be good for me because I'm dev, and I'm difficult you can interpreter and even interpreter, however, sometimes I don't understand the answer. I'd like to be able to refer to

116

ksk\_SATFDHPCC1@cdcr.ca.gov 00:28:03.500 --> 00:28:10.580

And this would be from coming up in January. So that's a, that's a valid question.

117

ksk\_SATFDHPCC1@cdcr.ca.gov 00:28:12.500 --> 00:28:29.540

As of now the department has agreed to do what I just explained. So you're not included in this yet. I'm not sure. I'm not sure if that's going to expand if the folks who use silent interpreters.

118

ksk\_SATFDHPCC1@cdcr.ca.gov 00:28:32.260 --> 00:28:52.100

There's also, there's nothing wrong with this being provided for you just because we don't, we don't have to be forced to do it until, you know, because we don't have to, it's something you utilize reach out and we'll see. Okay, and then are you going, you're talking about.

119

ksk\_SATFDHPCC1@cdcr.ca.gov 00:28:52.860 --> 00:29:12.580

izing part inboard itself in your, you're here. Yeah, so it's, yeah, because I don't know what the exact date, but it's and I, I know I haven't count for six months, so right now fourth hearings are not specifically listed in the, in the, the encounters that we're utilizing part not to say that we.

120

ksk\_SATFDHPCC1@cdcr.ca.gov 00:29:13.220 --> 00:29:33.060

Provide it, but normally responsible for providing their own needs of effect communication they provide their own interest, so I wouldn't suggest maybe uizing their form of a request a reasonable coordination. It's like a ten forty- seven or two seventy- four. I'm requesting the conclusion of Cart along during the rooms and maybe.

121

ksk\_SATFDHPCC1@cdcr.ca.gov 00:29:33.300 --> 00:29:38.220

If that's a little face may be able to accommate you with a separate therapy.

122

ksk\_SATFDHPCC1@cdcr.ca.gov 00:29:40.100 --> 00:29:42.220

Okay, thank you. Thank you.

123

ksk\_SATFDHPCC1@cdcr.ca.gov 00:29:45.220 --> 00:30:03.780

What was selling in our minutes? I live on the wall, but be very specific on what it is for right now, but it's in the infancy stage people absolutely and let's make it, well, you know, it's target. All right.

124

ksk\_SATFDHPCC1@cdcr.ca.gov 00:30:04.420 --> 00:30:12.980

I'll work with Mr [REDACTED] over here. Questions make sure they understand everything that we wrote today.

125

ksk\_SATFDHPCC1@cdcr.ca.gov 00:30:16.120 --> 00:30:22.640

We'll be in touch, asking you to put an agenda together for us in these before September. This meeting in.

126

ksk\_SATFDHPCC1@cdcr.ca.gov 00:30:25.360 --> 00:30:27.520

All right, thank you. All.

127

ksk\_SATFDHPCC1@cdcr.ca.gov 00:30:35.600 --> 00:30:41.240

Okay, can we meet? Can we meet tomorrow?

128

ksk\_SATFDHPCC1@cdcr.ca.gov 00:30:45.840 --> 00:30:50.200

If you got a sub, we won't talk. Okay.



# **EXHIBIT 30**

**Rita Lomio**

**From:** Skye Lovett <skye@prisonlaw.com> on behalf of Skye Lovett  
**Sent:** Tuesday, September 12, 2023 12:31 PM  
**To:** Powell, Alexander@CDCR  
**Cc:** Claudia Ceseña; Audrey Barron; Ed Swanson; Davis, Tamiya@CDCR; Deaf and HOH Work Group  
**Subject:** Re: CART Introduction Town Hall Feedback  
**Attachments:** Revised Implementation of Communication Access Real-Time Translation Services for Deaf and Hard of Hearing Incarcerated Persons.pdf

Hi Lex,

Thank you again for providing the WebEx transcript from the town hall meeting introducing CART on Facility G at SATF last month. I am writing to follow up on the other feedback we provided following our observation of the town hall.

As Claudia wrote to you last month, the execution of the town hall at SATF last month was inconsistent with the requirements in Defendants' CART policy memorandum that institutions conduct town halls "**utilizing CART** that have been advertised directly to [incarcerated persons] designated **DNH and DPH** to ensure awareness" (emphasis added). The memorandum is attached for your convenience.

At the town hall we observed last month, the ADA Coordinator stated that only IAC executive members and the four individuals on Facility G at SATF who have hearing disabilities and communicate through written notes were invited -- excluding the 61 individuals on that yard designated DNH who might require CART and who, according to Defendants' policy, will not receive it automatically and instead will need to affirmatively request it through the 1824 process. CART also was not actually used for the town hall, apparently because the expense was not authorized.

Failure to provide CART for the town hall seriously undermined Defendants' efforts to educate class members about this needed service. Absent CART, SATF used WebEx to transcribe the town hall for ██████████ ██████████ a deaf non-signer who Plaintiffs' counsel have repeatedly asked be provided CART so that he may equally access programs at SATF. (Mr. ██████████ also was "Person E" in the Court Expert's December 2022 SATF report.) As reflected in the transcript, staff did not begin using WebEx to caption the town hall for Mr. ██████████ until several minutes into the presentation. Once transcription did begin, it contained significant substantive errors. For example:

Describing...	Information Transcribed
the staff responsible for facilitating CART access	It's gonna be a counselor. Okay, so it'll supervisor when you staff in the ball to.
that class members with verified hearing disabilities can request that CART be made available during <i>due</i> process events	Okay, you can request that service be made available for you during those <i>student</i> process events
the 1824 process, then answering a question from another attendee about their ability to contact their family on the tablets	What's that accommodation reasonable accommodation is if you want one after this, we'll make sure you get one. Okay, well. I did not my. I talked no, but it's hard. I write a text, but. Nobody, do you have a tablet? No, you don't have a tablet, but how long have you been thirteen. Since July of two thousand twenty- three.
that CART cannot be scheduled for ASU placement notices	So if you are involved in a due process event that doesn't allow for event scheduling such as an <i>asset</i> placement notice, okay, we obviously wouldn't be able to schedule that beforehand

a question from an attendee	Can you see this ever throwing into something that would help these guys from your personal issues. Yeah, communicate with family education and South Bell.
a question from an attendee	All right, any questions about the video. Background Dallas and. Immediately, not yet, not yet.
a question from the Court Expert representative about Mr. [REDACTED]'s comprehension of the information presented	Wanting to make sure I understood how Mr. [REDACTED] for example, was understanding the service being offered, is he following along teams touching.

The transcript also omitted several questions from other attendees, depriving Mr. [REDACTED] of access to the information presented.

We urge Defendants to ensure that CART is provided for any future meetings with class members intended to educate them about the service, including a town hall for all DNH and DPH class members, as required by the policy memo. Please let us know if additional town halls at SATF are planned. In addition, on August 10, you told us that you would keep us updated on the town halls for the remaining ten institutions so that we could coordinate a visit. **Do you have any updates on that?**

We also ask that you please provide updates on the following questions from Claudia's August 11 email:

- **Was there a reason that DNH class members on Facility G at SATF were not invited to the town hall? Are other institutions similarly going to restrict the town halls?**
- **What was the reason SATF could not get CART for the town hall?**

Claudia also noted that, although the Court ordered SATF to implement CART during programming and education, as well as in due process events, the ADA Coordinator said when asked by one attendee that CART would not be offered in education. **Could you please provide updates on Defendants' efforts to educate class members (and the SATF ADA Coordinator, if necessary) that CART will be implemented during programming and education at a later time?**

Finally, please provide an update on the action SATF has taken in response to the following concerns, raised by deaf and hard-of-hearing attendees at the town hall:

- That they are not receiving notification of announcements in their housing units;
- That the tablets do not allow them to make accessible phone calls; and
- That group sponsors have been unable to operate VRI for various programs (an issue that the ADA Coordinator apparently was aware of).

Thank you for your help. Please contact me with any questions or concerns.

Best,  
Skye

On Thu, Aug 31, 2023 at 3:29 PM Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)> wrote:  
Hi Skye,

Please find attached the transcripts from the CART townhall provided to me by SATF. Let me know if you have any questions.

Best,

Lex

---

**From:** Skye Lovett <[skye@prisonlaw.com](mailto:skye@prisonlaw.com)>  
**Sent:** Wednesday, August 30, 2023 2:16 PM  
**To:** Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)>  
**Cc:** Claudia Ceseña <[claudia@prisonlaw.com](mailto:claudia@prisonlaw.com)>; Audrey Barron <[audrey@smllp.law](mailto:audrey@smllp.law)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Deaf and HOH Work Group <[deaf\\_hoh\\_work\\_group@prisonlaw.com](mailto:deaf_hoh_work_group@prisonlaw.com)>  
**Subject:** Re: CART Introduction Town Hall Feedback

**CAUTION:** This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Lex,

I hope you're well. Do you have any updates about the status of the WebEx transcript from the SATF Facility G CART town hall on August 10? The SATF ADA Coordinator said during the town hall that the WebEx transcript could be made available, but we have not yet received a copy. Could you please send us a copy of the transcript as soon as possible?

Thank you,  
Skye

On Fri, Aug 11, 2023 at 4:40 PM Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)> wrote:

Hi Claudia,

Thank you for your feedback. I have relayed it to program and will work to get you answers to your questions. Have a great weekend.

Best,

Lex Powell

---

**From:** Claudia Ceseña <[claudia@prisonlaw.com](mailto:claudia@prisonlaw.com)>  
**Sent:** Friday, August 11, 2023 4:28 PM  
**To:** Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)>  
**Cc:** Audrey Barron <[audrey@smllp.law](mailto:audrey@smllp.law)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Deaf and HOH Work Group <[deaf\\_hoh\\_work\\_group@prisonlaw.com](mailto:deaf_hoh_work_group@prisonlaw.com)>  
**Subject:** CART Introduction Town Hall Feedback

**CAUTION:** This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Lex,

Thank you for facilitating our observation of the CART Introduction Town Hall on G yard at SATF yesterday. I am writing to follow-up on a few things.

First, only a handful of people were present at the town hall. The ADAC said only IAC executive members and the four people with hearing disabilities whose form of communication is written notes were invited. That is inconsistent with the CART memo, which requires (at page 3) "Institution Town Halls . . . that have been advertised directly to IPs designated DNH and DPH to ensure awareness to the IP."

**Was there a reason for the change? Are other institutions going to similarly restrict the town halls?** There are 61 DNH class members on G yard at SATF who may require CART. It is important to explain and demonstrate CART for that population because they will not be automatically offered it and instead will need to request it separately. We have seen larger town halls regarding Deaf culture be very successful at SATF (under previous ADA Coordinator Steve Smith) - they were open to all.

Second, we are concerned about effective communication during the town hall itself. CART was not used during the town hall, even though the CART memo specifically requires "Town Halls utilizing CART." The ADAC seemed to suggest that he did not use CART because the expense was not authorized - that of course should not have been a barrier. **What was the reason SATF could not get CART for the town hall?**

In addition, there was no effective communication of the first part of the town hall for Mr. [REDACTED] because the ADAC said that WebEx wasn't working and they did not have CART. Staff took no other measures to ensure that what was spoken during the first part of the town hall was effectively communicated to Mr. [REDACTED]. Eventually, Mr. [REDACTED] was handed something that looked like a cell phone where he could presumably read captions; sometime later he was offered a laptop with WebEx. We are not sure that Mr. [REDACTED] received all of the information that others received in the town hall. The ADAC said the WebEx transcript would be made available - **would you please send it to us, so we can see what was relayed to Mr. [REDACTED] during the town hall?**

Third, according to the CART memo, CART will be provided for "ASU Placement Notice- Administrative Hearings." During the town hall, the ADAC stated that CART will **not** be provided for ASU placement hearings because staff would not have the required 24 hour advance scheduling notice. Is that correct? That seems contrary to the



language and purpose of the memorandum. **Would you please explain the issue related to ASU placement, and how it may affect what is written in the CART memo/when CART is provided?**

Fourth, one attendee asked if CART would be offered in education, and the ADAC said it would not be. It would be helpful to inform incarcerated people (and the ADAC, if it has not yet been communicated to him) that CART will be offered at SATF during all other programming, including education, groups, and religious services, in the future, as required by Court order.

Finally, we note that the attendees also raised a number of other concerns at the town hall that we continue to see at SATF and elsewhere, including (1) that they are not receiving notification of announcements in their housing units; (2) that the tablets do not allow them to make accessible phone calls; and (3) the staff have been unable to get VRI to work for various programs (an issue the ADAC apparently is aware of). **Would you please let us know what action SATF takes in response to these concerns?**

Thanks again for your help yesterday. We look forward to working with you to address these and other issues that face deaf and hard-of-hearing people.

Best,

**Claudia Ceseña**

*Legal Fellow*

she/her/ella

**Prison Law Office**

510-280-2644

# **EXHIBIT 31**

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**From:** deaf\_hoh\_work\_group@prisonlaw.com on behalf of Powell, Alexander@CDCR <Alexander.Powell@cdcr.ca.gov>  
**Sent:** Thursday, August 10, 2023 10:16 AM  
**To:** Marissa Hatton  
**Cc:** Davis, Tamiya@CDCR; Ed Swanson; Deaf and HOH Work Group; Claudia Ceseña  
**Subject:** RE: SATF CART Town Halls

Hi Marissa,

At this point I don't think there are more town halls planned at SATF for phase I rollout. However, as phase I is hopefully to happen at the other 10 institutions shortly thereafter, I expect there will be additional town halls at many institutions and we can keep you apprised so that we can coordinate a visit.

Best,

Lex

---

**From:** Marissa Hatton <mhatton@prisonlaw.com>  
**Sent:** Thursday, August 10, 2023 10:07 AM  
**To:** Powell, Alexander@CDCR <Alexander.Powell@cdcr.ca.gov>  
**Cc:** Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>; Ed Swanson <ed@smllp.law>; Deaf and HOH Work Group <deaf\_hoh\_work\_group@prisonlaw.com>; Claudia Ceseña <claudia@prisonlaw.com>  
**Subject:** Re: SATF CART Town Halls

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Thanks Lex, I appreciate the effort and your prompt responses. To clarify, we weren't planning to conduct any staff interviews -- we simply want to send someone to observe, and potentially check in with our clients afterward. I should have been more clear about that. **Do you have future town halls planned, and if so, is it possible to get a bit more advanced notice so we can coordinate an in-person observation?** It's up to you as to whether OLA needs to attend, but if there's no legal rep, we won't speak to any staff other than as necessary to move about the facility.

We received the Teams invitation -- thank you for that. Please remember to copy Claudia Ceseña (cc'd here) on all things deaf and hard of hearing related. I know it's a lot of folks to keep track of, so when in doubt, feel free to use the <[deaf\\_hoh\\_work\\_group@prisonlaw.com](mailto:deaf_hoh_work_group@prisonlaw.com)> address, and it will capture everyone on Plaintiffs' side. Thanks!

On Thu, Aug 10, 2023 at 8:01 AM Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)> wrote:

Good Morning,

Since G Yard is tied for the most class members who will need CART and has Mr. [REDACTED] on it, we'll set up a TEAMS invite for that one and send it to you this morning. We were unable to get OLA in person coverage so it has to be virtual. It will begin at 1330 hours today. Let me know if I can be of any other assistance on this.

Best,

**Alexander Powell**

Attorney, Class Action Team

CDCR, Office of Legal Affairs

Phone: [REDACTED]

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**From:** Marissa Hatton <[mhatton@prisonlaw.com](mailto:mhatton@prisonlaw.com)>

**Sent:** Wednesday, August 9, 2023 4:02 PM

**To:** Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)>

**Cc:** Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Deaf and HOH Work Group <[deaf\\_hoh\\_work\\_group@prisonlaw.com](mailto:deaf_hoh_work_group@prisonlaw.com)>

**Subject:** Re: SATF CART Town Halls

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Thank you Lex, appreciate it. And actually, I meant on-site attendance; that's likely the best (and perhaps only) way to get a full sense of what's going on in the room. Please let us know if that will work, and perhaps we can consider virtual attendance as a supplement/backup?

On Wed, Aug 9, 2023 at 2:42 PM Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)> wrote:

Hi Marissa,

I will reach out to SATF to see what we can do. I assume you mean virtual attendance, yes? That should be manageable but I'll check to see which time works best for SATF. Thanks!

Best,

Lex Powell

---

**From:** Marissa Hatton <[mhatton@prisonlaw.com](mailto:mhatton@prisonlaw.com)>

**Sent:** Wednesday, August 9, 2023 2:28 PM

**To:** Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)>

**Cc:** Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Deaf and HOH Work Group <[deaf\\_hoh\\_work\\_group@prisonlaw.com](mailto:deaf_hoh_work_group@prisonlaw.com)>

**Subject:** Re: SATF CART Town Halls

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Hi Lex,

Thanks so much for sending this along, we appreciate it. We'd like for one of our staff members to be able to observe the SATF town halls if possible -- we don't need to observe all of them, and we can be flexible on timing.

Please let us know how that can be arranged.

Thank you,

Marissa



On Wed, Aug 9, 2023 at 9:26 AM Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)> wrote:

Good Morning,

Here is the schedule for the SATF CART town halls. All meetings will take place on Thursday, 8/10/23:

0900 – Facility A

0945 – Facility B

1030 – Facility C

1115 – Facility D

1200 – Facility E

1245 – Facility G

1330 – Facility H

Let me know if you have any questions or if I can be of any assistance.

Best,

**Alexander Powell**

Attorney, Class Action Team

CDCR, Office of Legal Affairs

Phone: [REDACTED]

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# **EXHIBIT 32**

# **EXHIBIT 32a**

You are connected to event:  
**CDCR [redacted]-Caption-Demo-08-25-2023**

Themes: Default Font Size: 18 Font Family: Verdana Background: White Text Color: Black Scroll: [checked] Whole Words: [unchecked]

>> [redacted] Good afternoon, today I will show you how to start using CART services. Just a friendly reminder, stop shall offer the CART services to the incarcerated persons identified as DPH, permanent hearing impairment. Impact placement. Who do not rely on SLI and primary alternate method of effective communication is written notes. During a following encounter. Passenger case committee, for example ICC or you cc, RPR hearings only, ASU placement notice hearing phony. Then, for the Armstrong six institution by annual staff interview with ALO . All right, let's get started. How to schedule CART services: proof identified each of the institutions will have the opportunity to schedule CART services by sending an email to, let me show you. Info@CALinterpreting.com you will cc camel, the subject line will be CDC printed you will include all this information in the email: institution, for example I use CSP LAC, inmates name, CDC number. The date services requested. The time services requested. The service type. Which is RBR hearing, for this demo. The last name of the attendee and the request for a transcript to be provided following the encounter. You will send this email within 24 hours you will receive a confirmation email. That will look something like this. This is to confirm that they have a CART Captioner available. CIT will provide you with the stream text link as well as the CIT dial in Number. When you call this number, you will advise the operator that you have a scheduled appointment. The job number . All you will need to do is provide the job number 62527. An operator will connect you with the CART Captioner. The stream text link will look like this. in the link you can adjust the font size, background, and text color. In case the staff member needs to schedule an appointment within 24 hours. Stop shall send an email to info@CALinterpreting.com , give you an example. Cc camel in the subject line so urgent CART services request. Along with all of the information. CIT will then send an email confirming whether they have a Captioner available or not. Again, how to provide services staff will utilize a telephone conference line located in the area of your service that will be provided. As I mentioned earlier, stop shall utilize the telephone number to initiate the service. Staff will then open the stream text link. Provided in the schedule appointment response received from CIT. Once the stream text link is clicked on the web browser link will open which looks like this. To ensure accuracy of the transcription, stop shall speak slowly and clearly, avoiding the use of acronyms during the encounter. If there are issues during the transcription such as the transcriber is incorrectly transcribing an acronym. They should clearly state what needs to be corrected, moving forward in the transcription. Also, friendly reminder, staff will provide the inmate with the view of the screen. Where the transcription will appear. At the conclusion of this service, the staff member will advise the Captioner that the service has ended. Then, within 24 hours, the scheduler will receive the transcription. Via email.

Your Name: [redacted]  
 Remember Me  
Enter Chat

Copyright © 2023  
7:22  
8/25/2023



The screenshot shows a web browser window with a chat interface. At the top, there is a navigation bar with a home icon, a refresh icon, and a search icon. Below this is a header area with the text "You are connected to event: CDCR [redacted]-Caption-Demo-08-25-2023". To the right of the header are several settings: "Themes: Default", "Font Size: 18", "Font Family: Verdana", "Background: White", "Text Color: Black", "Scroll: [checked]", and "Whole Words: [unchecked]".

The main content area contains a large block of text, which is a transcript of a video demo. The text reads: "stop shall offer the CART services to the incarcerated persons identified as DPH, permanent hearing impairment. Impact placement. Who do not rely on SLI and primary alternate method of effective communication is written notes. During a following encounter. Passenger case committee, for example ICC or you cc, RPR hearings only, ASU placement notice hearing phony. Then, for the Armstrong six institution by annual staff interview with ALO . All right, let's get started. How to schedule CART services: proof identified each of the institutions will have the opportunity to schedule CART services by sending an email to, let me show you. Info@CALinterpreting.com you will cc camel, the subject line will be CDC printed you will include all this information in the email: institution, for example I use CSP LAC, inmates name, CDC number. The date services requested. The time services requested. The service type. Which is RBR hearing, for this demo. The last name of the attendee and the request for a transcript to be provided following the encounter. You will send this email within 24 hours you will receive a confirmation email. That will look something like this. This is to confirm that they have a CART Captioner available. CIT will provide you with the stream text link as well as the CIT dial in Number. When you call this number, you will advise the operator that you have a scheduled appointment. The job number . All you will need to do is provide the job number 62527. An operator will connect you with the CART Captioner. The stream text link will look like this. in the link you can adjust the font size, background, and text color. In case the staff member needs to schedule an appointment within 24 hours. Stop shall send an email to info@CALinterpreting.com , give you an example. Cc camel in the subject line so urgent CART services request. Along with all of the information. CIT will then send an email confirming whether they have a Captioner available or not. Again, how to provide services staff will utilize a telephone conference line located in the area of your service that will be provided. As I mentioned earlier, stop shall utilize the telephone number to initiate the service. Staff will then open the stream text link. Provided in the schedule appointment response received from CIT. Once the stream text link is clicked on the web browser link will open which looks like this. To ensure accuracy of the transcription, stop shall speak slowly and clearly, avoiding the use of acronyms during the encounter. If there are issues during the transcription such as the transcriber is incorrectly transcribing an acronym. They should clearly state what needs to be corrected, moving forward in the transcription. Also, friendly reminder, staff will provide the inmate with the view of the screen. Where the transcription will appear. At the conclusion of this service, the staff member will advise the Captioner that the service has ended. Then, within 24 hours, the scheduler will receive the transcription. Via email. This concludes the quick video demo. If you have any questions please feel free to email me at [redacted]@CDCR.ca.gov".

At the bottom of the chat window, there is a "Your Name" field with a [redacted] name, a "Remember Me" checkbox, and an "Enter Chat" button. The bottom of the browser window shows the Windows taskbar with the time 7:36 and the date 8/25/2023.



# **EXHIBIT 32b**

1 DONALD SPECTER – 083925  
RITA K. LOMIO – 254501  
2 MARGOT MENDELSON – 268583  
JACOB J. HUTT – 804428 (MJP)  
3 PRISON LAW OFFICE  
1917 Fifth Street  
4 Berkeley, California 94710-1916  
Telephone: (510) 280-2621  
5 Facsimile: (510) 280-2704

6 MICHAEL W. BIEN – 096891  
GAY C. GRUNFELD – 121944  
7 THOMAS NOLAN – 169692  
PENNY GODBOLD – 226925  
8 CAROLINE JACKSON – 329980  
ROSEN BIEN  
9 GALVAN & GRUNFELD LLP  
101 Mission Street, Sixth Floor  
10 San Francisco, California 94105-1738  
Telephone: (415) 433-6830  
11 Facsimile: (415) 433-7104

12 LINDA D. KILB – 136101  
DISABILITY RIGHTS EDUCATION &  
13 DEFENSE FUND, INC.  
3075 Adeline Street, Suite 201  
14 Berkeley, California 94703  
Telephone: (510) 644-2555  
15 Facsimile: (510) 841-8645

16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19

20 JOHN ARMSTRONG, et al.,  
21 Plaintiffs,  
22 v.  
23 GAVIN NEWSOM, et al.,  
24 Defendants.  
25

Case No. C94 2307 CW

**EXHIBIT 32B TO THE  
DECLARATION OF RITA K. LOMIO  
IN SUPPORT OF PLAINTIFFS’  
RESPONSE TO COURT EXPERT’S  
SECOND REPORT REGARDING  
TREATMENT OF PEOPLE WITH  
DISABILITIES AT SATF**

Judge: Hon. Claudia Wilken

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**Manual Filing Notification**

Regarding: Exhibit 32b to the Declaration of Rita K. Lomio

This filing is in paper or physical form only, and is being maintained in the case file in the Clerk’s office. If you are a participant in this case, this filing will be served in hard-copy shortly. For information on retrieving this filing directly from the court, please see the court’s main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not e-filed for the following reason(s):

- 1.  Unable to Scan Documents
- 2.  Physical Object (please describe):
- 3.  Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media
- 4.  Item Under Seal in Criminal Case
- 5.  Conformance with the Judicial Conference Privacy Policy (General Order 53)
- 6.  Other (please describe)

DATED: September 21, 2023

Respectfully submitted,

PRISON LAW OFFICE

By: /s/Rita K. Lomio

Rita K. Lomio

Attorneys for Plaintiffs

# **EXHIBIT 33**

**From:** Powell, Alexander@CDCR <Alexander.Powell@cdcr.ca.gov>  
**Sent:** Wednesday, August 2, 2023 3:37 PM  
**To:** Rita Lomio; Caroline Jackson; Marissa Hatton; Tovah Ackerman; Skye Lovett; Audrey Barron; Ed Swanson  
**Cc:** Davis, Tamiya@CDCR; Ferguson, Patricia@CDCR; Mark Jackson; Sharon.Garske@doj.ca.gov; Houston, Mona@CDCR  
**Subject:** CART Services Attachment A Revised  
**Attachments:** CART Services.docx-Attachment A -Revised 8.2.23 (002).docx

Good Afternoon,

Please find attached revised Attachment A that was shared with the field today. Please let me know if you have any questions or we can discuss them tomorrow.

Best,

**Alexander Powell**

Attorney, Class Action Team  
CDCR, Office of Legal Affairs  
Phone: [REDACTED]

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## CART Services

### TOPIC

Communication Access Realtime Translation (CART) Services

### ACCESS

CART Services will be offered to the California Department of Corrections and Rehabilitation's (CDCR's) Deaf or Hard of Hearing who do not use American Sign Language (ASL) and the primary/secondary form of communication is written notes. Any other incarcerated person (IP) who are defined as, DPH or DNH can request CART Services by submitting a CDCR 1824, Reasonable Accommodation Request form with the Americans with Disabilities Act Coordinator.

### SCHEDULING APPOINTMENTS

Custody supervisors and managers at the identified institutions will be the approved schedulers for CART services.

### How to Schedule

Approved schedulers at each of the identified institutions will have the opportunity to schedule CART Services by sending an email to [info@calinterpreting.com](mailto:info@calinterpreting.com)

All requests should copy the Class Action Management Unit (CAMU) mailbox at [CDCR.CAMU@cdcr.ca.gov](mailto:CDCR.CAMU@cdcr.ca.gov)

All requests should have a Subject line of: **CDCR CART Services Request**

All requests should include the following information:

- Institution Acronym (e.g., SATF)
- Incarcerated person's Last Name (e.g., Jones)
- Incarcerated person's CDC#
- Date Service Requested (06/26/2023)
- Time Service Requested(14:00 hours)
- Service Type (e.g., Due Process)
- Last name and Professional Title of all attendees known at time of scheduling
- Request for transcript to be provided following encounter (e.g., All due process events)

All appointments should be scheduled within 72 hours, but can be scheduled up to 24 hours in advance. This service is available 24 hours / 7 days a week / 365 days a year.

After the request email has been sent, Cal Interpreting and Translations (CIT) will send a confirmation email reply all with the Stream Text link required to access the transcription, in addition to the telephone number utilized to initiate the service.

CDCR staff will provide the IP with view of the screen where the transcription will appear. The device shall remain in the possession of the CDCR staff person at all times.

## CART Services

Cancellation or Changes in scheduling must be communicated to CIT within 15 minutes of the scheduled service

### Change Scheduled Service Process

If an emergency occurs and the scheduled service appointment must change, staff shall send an email to [info@calinterpreting.com](mailto:info@calinterpreting.com), with [CDCR.CAMU@cdcr.ca.gov](mailto:CDCR.CAMU@cdcr.ca.gov) copied, or respond to approved appointment email from original email request chain and provide the following:

- PO or Job Number from appointment confirmation email
- Reschedule date/time request

In case a staff member needs to schedule an appt. within 24 hours, staff shall send an email to the following: [info@calinterpreting.com](mailto:info@calinterpreting.com) with [CDCR.CAMU@CDCR.CA.GOV](mailto:CDCR.CAMU@CDCR.CA.GOV) copied with subject line: **urgent, emergency-cart services request.**

### Cancel Scheduled Service Process

If a scheduled service is canceled for any reason, send an email to [info@calinterpreting.com](mailto:info@calinterpreting.com), with [CDCR.CAMU@cdcr.ca.gov](mailto:CDCR.CAMU@cdcr.ca.gov) copied, or respond to approved appointment email from original email request chain and add the word **CANCELED** in the subject line and provide the following:

- PO or Job Number from appointment confirmation email

### HOW TO PROVIDE SERVICES

Staff will utilize an accessible telephone/conference line located in the area in which the service will be provided.

- Staff shall utilize the following telephone number to initiate the service: 1-888-737-9009, dial 1 when prompted.
- Staff will then open the Stream Text link provided in the scheduled appointment email response received from CIT to access the web-portal for the transcription page to be seen. No video of the transcriptionist will be viewable.

Once the StreamText link is clicked on, a web browser page will open with the StreamText interface:



### DUE PROCESS EVENT TRANSCRIPT PRINT PROCESS

## CART Services

Immediately following the session, staff are to ensure the transcription is provided by CIT within 24 hours of the service. Upon receipt, staff shall print the transcription and deliver to Case Records Staff. Case Records staff will scan the copy of the transcript into the Electronic Management Records System with corresponding documentation to the event. If the transcript is not provided within 24 business hours of the job's completion, please email: [julia@calinterpreting.com](mailto:julia@calinterpreting.com).

DISCLAIMER: When staff connect to the stream text link, the transcriber will input the following disclaimer-“The participant is informed that the CART services may experience inconsistencies with the closed captioning on the screen based on the audio portion received. Please advise the facilitator at any time if you do not understand or need clarification regarding the closed caption displayed on screen.”

### TROUBLESHOOTING ISSUES/WORKAROUNDS

If the device used for CART Services is not working, obtain another device identified for the same purpose or revert to paper process.

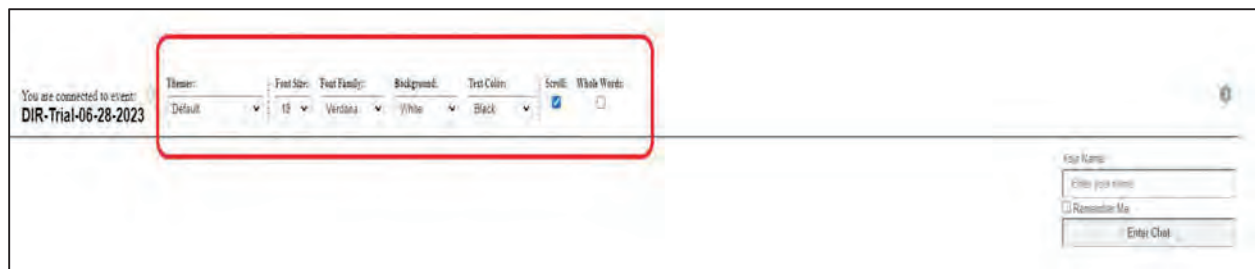
If there are issues during the transcription, such as the transcriber is incorrectly transcribing an acronym or terminology or name, staff should clearly state what needs to be corrected moving forward in the transcription.

If the provided URL does not work or the transcriber does not show up as scheduled email the [accounting@calinterpreting.com](mailto:accounting@calinterpreting.com) or call CIT at (888) 727-9009

### FAQs

*Question: Can I customize viewing options?*

Answer: Yes. You can adjust the font size and colors to meet individual viewing needs.



*Question: Can CDCR Staff message the transcriber during the session?*

Answer: Yes. There is an integrated chat feature included in SteamText's technology that can be used for communications between staff and the transcriber to assist with incorrect acronyms and names, etc., specific to CDCR.

# CART Services



---

**From:** Rita Lomio <rlomio@prisonlaw.com>  
**Sent:** Wednesday, August 2, 2023 12:21 PM  
**To:** Powell, Alexander@CDCR; Caroline Jackson; Marissa Hatton; Tovah Ackerman; Skye Lovett; Audrey Barron; Ed Swanson  
**Cc:** Davis, Tamiya@CDCR; Ferguson, Patricia@CDCR; Mark Jackson; Sharon.Garske@doj.ca.gov; Houston, Mona@CDCR  
**Subject:** RE: Revised Implementation of Communication Access Real-Time Translation Services for Deaf and Hard of Hearing Incarcerated Persons

Thanks for this additional information, Lex. That does not fix the problem, unfortunately. DNH needs to be added to the list. Were institutions instructed to add that code? And why was DPS retained?

---

**From:** Powell, Alexander@CDCR [mailto:[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)]  
**Sent:** Wednesday, August 2, 2023 11:59 AM  
**To:** Rita Lomio <[rlomio@prisonlaw.com](mailto:rlomio@prisonlaw.com)>; Caroline Jackson <[CJackson@rbgg.com](mailto:CJackson@rbgg.com)>; Marissa Hatton <[mhatton@prisonlaw.com](mailto:mhatton@prisonlaw.com)>; Tovah Ackerman <[tovah@prisonlaw.com](mailto:tovah@prisonlaw.com)>; Skye Lovett <[skye@prisonlaw.com](mailto:skye@prisonlaw.com)>; Audrey Barron <[audrey@smlp.law](mailto:audrey@smlp.law)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>  
**Cc:** Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Ferguson, Patricia@CDCR <[Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov)>; Mark Jackson <[mark.jackson@doj.ca.gov](mailto:mark.jackson@doj.ca.gov)>; [Sharon.Garske@doj.ca.gov](mailto:Sharon.Garske@doj.ca.gov); Houston, Mona@CDCR <[Mona.Houston2@cdcr.ca.gov](mailto:Mona.Houston2@cdcr.ca.gov)>  
**Subject:** RE: Revised Implementation of Communication Access Real-Time Translation Services for Deaf and Hard of Hearing Incarcerated Persons

Hi Rita,

This is something that Defendants are aware of and provided supplemental instruction to the field the following day, July 25. I've attached the relevant part of that communication below.

As previously discussed, there was a slight oversight (Attachment A) regarding the designated codes who can request CART services, please be sure to omit the DPV code from your local LOP.

## **CART-Attachment A**

### **ACCESS**

CART Services will be offered to the California Department of Corrections and Rehabilitation's (CDCR) Deaf or Hard of Hearing who do not use American Sign Language (ASL) and the primary/secondary form of communication is written notes. Any other Incarcerated Person (IP) who are defined as **DPV**, **DPH** or **DPS** can request CART Services by submitting a CDCR Form 1824, Reasonable Accommodation Request form with the Americans with Disabilities Act (ADA) Coordinator.

### **You may include the following information regarding CART services in your local LOP:**

In case a staff member needs to schedule an appt. within 24 hours, staff shall send an email to the following : [info@calinterpreting.com](mailto:info@calinterpreting.com) with [CDCR.CAMU@CDCR.CA.GOV](mailto:CDCR.CAMU@CDCR.CA.GOV) copied with subject line: **urgent, emergency-cart services request. Please be sure to include the required information noted in the attachment A.**



In regards to the transcript, if it is not provided within 24 business hours of the job's completion, please email: [julia@calinterpreting.com](mailto:julia@calinterpreting.com).

DISCLAIMER-When the staff member connects to the stream text link, the transcriber will input the following Disclaimer-**The participant is informed that the CART services may experience inconsistencies with the closed captioning on the screen based on the audio portion received. Please advise the facilitator at any time if you do not understand or need clarification regarding the closed caption displayed on screen.**

We welcome further discussion and questions on this, and other CART related topics tomorrow.

Best,

Lex Powell

---

**From:** Rita Lomio <[rlomio@prisonlaw.com](mailto:rlomio@prisonlaw.com)>

**Sent:** Wednesday, August 2, 2023 11:06 AM

**To:** Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)>; Caroline Jackson <[CJackson@rbgg.com](mailto:CJackson@rbgg.com)>; Marissa Hatton <[mhatton@prisonlaw.com](mailto:mhatton@prisonlaw.com)>; Tovah Ackerman <[tovah@prisonlaw.com](mailto:tovah@prisonlaw.com)>; Skye Lovett <[skye@prisonlaw.com](mailto:skye@prisonlaw.com)>; Audrey Barron <[audrey@smlp.law](mailto:audrey@smlp.law)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>

**Cc:** Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Ferguson, Patricia@CDCR <[Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov)>; Mark Jackson <[mark.jackson@doj.ca.gov](mailto:mark.jackson@doj.ca.gov)>; Sharon.Garske@doj.ca.gov; Houston, Mona@CDCR <[Mona.Houston2@cdcr.ca.gov](mailto:Mona.Houston2@cdcr.ca.gov)>

**Subject:** RE: Revised Implementation of Communication Access Real-Time Translation Services for Deaf and Hard of Hearing Incarcerated Persons

**CAUTION:** This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks, Lex. We'll take a closer look before tomorrow's meeting, but would you please confirm that the Attachment A you sent this morning is the correct version?

As we noted in our email and comments sent July 7 (attached), the first section, "Access," incorrectly states policy. It says that "incarcerated person[s] who are defined as **DPV**, **DPH** or **DPS** can request CART Services by submitting a CDCR 1824." That is inconsistent with the policy memorandum, which provides that "IPs with verified hearing disabilities (**DNH** or **DPH**) shall be able to request CART services through the 1824/Reasonable Accommodation Process." CART will not help someone who is designated DPV or DPS – those codes refer to vision and speech disabilities, respectively – unless they also have a hearing disability. Did Defendants review and incorporate Plaintiffs' previous comments?

---

**From:** Powell, Alexander@CDCR [mailto:[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)]

**Sent:** Wednesday, August 2, 2023 9:44 AM

**To:** Rita Lomio <[rlomio@prisonlaw.com](mailto:rlomio@prisonlaw.com)>; Caroline Jackson <[CJackson@rbgg.com](mailto:CJackson@rbgg.com)>; Marissa Hatton <[mhatton@prisonlaw.com](mailto:mhatton@prisonlaw.com)>; Tovah Ackerman <[tovah@prisonlaw.com](mailto:tovah@prisonlaw.com)>; Skye Lovett <[skye@prisonlaw.com](mailto:skye@prisonlaw.com)>; Audrey Barron <[audrey@smlp.law](mailto:audrey@smlp.law)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>

**Cc:** Davis, Tamiya@CDCR <[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov)>; Ferguson, Patricia@CDCR <[Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov)>; Mark Jackson <[mark.jackson@doj.ca.gov](mailto:mark.jackson@doj.ca.gov)>; Sharon.Garske@doj.ca.gov; Houston, Mona@CDCR <[Mona.Houston2@cdcr.ca.gov](mailto:Mona.Houston2@cdcr.ca.gov)>

**Subject:** Revised Implementation of Communication Access Real-Time Translation Services for Deaf and Hard of Hearing Incarcerated Persons

Good Morning,

Please find attached the revised CART memorandum and attachment A that was shared with the field last week. Please let me know if you have any questions or we can discuss them tomorrow.

Best,

**Alexander Powell**

Attorney, Class Action Team

CDCR, Office of Legal Affairs

Phone: [REDACTED]

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**From:** Rita Lomio <rlomio@prisonlaw.com>  
**Sent:** Friday, July 7, 2023 6:32 PM  
**To:** Davis, Tamiya@CDCR; Powell, Alexander@CDCR  
**Cc:** Deaf and HOH Work Group; audrey@smllp.law; ed@smllp.law  
**Subject:** RE: CART Requests  
**Attachments:** CART Services.docx-Attachment A -Revised (Plaintiffs' Comments).docx

Hi Lex and Tamiya,

We reviewed the revised CART memorandum and Attachment A. Attached please find our edits and comments to Attachment A. I wanted to flag the first one in particular – the attachment says that “incarcerated person[s] who are defined as **DPV, DPH or DPS** can request CART Services by submitting a CDCR 1824.” That is inconsistent with the memorandum; CART will not help people who are DPV or DPS unless they also have a hearing disability (DNH or DPH).

We appreciate that you incorporated several of our suggested edits into the memorandum. We have a number of remaining concerns:

1. It remains unclear whether and how Defendants will document whether someone requires CART so that the person does not need to request it (and staff do not need to offer it) for each separate encounter.
2. The policy should require staff to document any reason why CART could not be made available, the action taken, and the alternative method of communication provided, and report that information to the ADA office (and, as CART is being rolled out, to headquarters).
3. We continue to recommend that RAPs be provided additional guidance on how to evaluate requests for CART through examples of improper bases for denying CART (“An institution may not deny CART solely on the grounds that a person has working hearing aids, another assistive hearing device, or documented low literacy; because the program, service, or activity relies in part on pre-written materials; or because the institution does not have the necessary equipment.”). This is based on our experience reviewing poor RAP responses to requests from people with hearing disabilities.
4. Defendants also declined to include any oversight mechanism to allow headquarters to monitor whether institutions are properly responding to requests for CART. This is critical; the Court recognized the need to develop systems “to enable Defendants to identify and correct, without the assistance of Plaintiffs’ counsel or other external monitors, problems that prevent them from delivering reasonable accommodations to class members.” Dkt. 3467 at 3. At our meeting last week, Defendants said that Retired Annuitant [REDACTED] is providing some assistance to RAPs generally. If Defendants elect to use her to help monitor implementation of the CART memorandum, Defendants must put in place a clear process to ensure she gets access to relevant RAP responses. For example, the memorandum could say: “For a period of six months following issuance of this memorandum, institutions shall, on a monthly basis, submit all RAP responses denying requests for CART to [REDACTED] Retired Annuitant at [address@cdcr.ca.gov](mailto:address@cdcr.ca.gov). Staff may contact [REDACTED] at any time to discuss individual 1824s and guidance regarding CART.”
5. Defendants declined our proposed language: “At all effective communication evaluations of deaf and hard-of-hearing IPs (including at intake and whenever someone is assigned a DNH or DPH code), CDCR should educate the IP about the availability of CART and how to request it.” It is not clear why; “it often takes late-deafened adults years to learn about coping strategies, assistive technology, and their basic rights to communication access.” Marylyn Howe, Meeting the Needs of Late-Deafened Adults, 19 Am. Rehabilitation 25, \*3 (Winter

1993). The outreach mechanisms in the current version of the policy focus on people who currently are designated DNH or DPH, but ignore people who, in the future, may become deaf or hard-of-hearing.

6. We continue to object to any forced transfer of, or housing limitations for, people who require access to CART to equally participate in programs, services, and activities.

I'm happy to discuss any of these issues further – please do not hesitate to reach out. We also are waiting for you to provide (1) the CART contract, (2) WebEx LOPs, (3) status of the connectivity assessments, and (4) proposed date for our next meeting.

Rita

---

# **EXHIBIT 34**



## Rita Lomio

---

**From:** Marissa Hatton <mhatton@prisonlaw.com> on behalf of Marissa Hatton  
**Sent:** Tuesday, September 12, 2023 5:20 PM  
**To:** Powell, Alexander@CDCR  
**Cc:** Ed Swanson; audrey@smlp.law; Rita Lomio; Tovah Ackerman; Claudia Cesena; Davis, Tamiya@CDCR; Caroline Jackson; Houston, Mona@CDCR; White, Lourdes@CDCR; Mebane, Darnell@CDCR; Ferguson, Patricia@CDCR; Lau-Silveira, Ava; Mark Jackson; Sharon Garske; Case, Erin@CDCR; Burkart, Brianne@CDCR; Dumalig, Sylvia@CDCR; Legarda, Alicia@CDCR; Deaf and HOH Work Group  
**Subject:** Re: SATF CART Updates

Thanks for this information, Lex.

Do you have any updates, including which items have now been completed? Do you have an estimated timeline for rolling CART out to PSAs at SATF, and have you begun drafting the relevant policy memorandum?

We also would like additional information about the first bullet in Phase 2a – “[r]equires decision on exactly what PSAs are included.” Who is making this determination, and are there PSAs that Defendants are considering excluding from CART? What is Defendants’ basis for potentially excluding certain PSAs from CART services as an accommodation under the ADA?

Finally, at our August 3 meeting, Defendants said that their intention was to create an auditing structure that included, among other things, CCIs reviewing RAP responses to CART requests monthly (and also sending them to headquarters), retired annuitants █████ and █████ conducting spot checks of RAP responses related to CART, and monthly auditing of due process documentation, including related to RVRs, but that no specific direction had gone out yet. Has direction be issued about that? If so, we’d appreciate seeing a copy of it.

Thanks,  
Marissa

On Fri, Aug 18, 2023 at 3:08 PM Powell, Alexander@CDCR <[Alexander.Powell@cdcr.ca.gov](mailto:Alexander.Powell@cdcr.ca.gov)> wrote:

Good Afternoon,

Please find below updates for CART rollout at SATF, as well as the other 10 institutions.

### Phase 1 – Due Process at all 11 sites (*these task have been completed and are ready to go*)

- Required identification of device for transcription screen to be seen
- Required determination of how transcriptions will hear verbal communication to transcribe
- Required process to receive transcript for scanning into ERMS
- Required reprogramming of telephones to allow 4 digit number to be dialed to automatically call mainline for transcription company (CIT) as calls to external lines on CDCR staff phones within institutions are typically not allowed
- Required determination of business process to limit Due Process events to locations with hardwired internet access with computer and two screens and staff telephone lines

### **Phase 2a - Other PSAs at SATF**

- Requires decision on exactly what PSAs are included
- Requires decision on devices
  - Key issue is that Custody staff would not be present and controlling the device for all programs, such a volunteer/outside provider run classes like AA, therefore the device will need to be on inmate network/inmate-possession
- Will need to determine how the device connects in each area and alternative locations, if necessary
- Will need to determine how incarcerated people request an appointment, how they are scheduled and by whom
- Will need to determine how incarcerated people will receive hyperlink to access transcription (from email sent to staff who schedule appointment)
- Will need to determine how transcriber will have access to the verbal communication they are to transcribe (phone line? Meeting software?)
- Procurement for any needed equipment
- Procurement for any needed internet or phone coverage

### **Phase 2b - Expand PSA CART coverage to remaining 10 sites**

- Survey each site for coverage based on what programs are included and where they are and can be hosted
- Procurement for any needed equipment
- Procurement for any needed internet or phone coverage

For Phase 2 rollouts, we are working to get PSAs with CART as they become feasible. We will deploy for individual programs on a rolling basis, not in one complete package. Programs that are run or supervised by CDCR staff working on CDCR connections are easier to implement than programs run by incarcerated people without the same provisions in the system. We want to provide these accommodations as quickly as we can where we are able and Defendants feel a staggered approach to PSA CART deployment is the best way to do that.

Additionally, plaintiffs' counsel raised concern that the contract's requirement of 24 hour notice for CART services may be impossible for some due process events which are required to be heard the next business day. Defendants are aware of this, and have created an exception for urgent and emergent due process issues that will shorten the timeframe in order to provide for these mandated hearing timelines.

Please let me know if you have any questions about any of this information.

Best,

**Alexander Powell**

Attorney, Class Action Team

CDCR, Office of Legal Affairs

Phone: [REDACTED]

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**Marissa K. Hatton** (she/her)  
Staff Attorney | Prison Law Office  
1917 Fifth Street  
Berkeley, CA 94710  
(510) 280-2621