



Legal Services for Prisoners with Children  
4400 Market Street, Oakland, CA 94608

California Department of Corrections and Rehabilitation (CDCR)  
Regulation & Policy Management Branch  
Via email: [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov)

**Re: Comments on Second Notice of Change to Text of Regulations As Originally Proposed – # 25-04**

February 13, 2026

Dear Associate Director Ying Sun:

On April 15, 2025, Legal Services for Prisoners with Children (LSPC) had the pleasure of submitting public comment on the initial round of this rulemaking, NCR 25-04, implementing the Transgender Respect, Agency, and Dignity Act. On September 25, 2025, LSPC submitted additional comments on the re-noticed version issued on August 21, 2025. Presently, we are submitting comments on the second re-noticed version issued on January 30, 2026.

[Legal Services for Prisoners with Children](#) (LSPC) is a California-based 501c(3) nonprofit organization with over four decades of experience championing the human rights of incarcerated and formerly incarcerated persons and their families. Officially designated by the California state bar as a Legal Services Support Center, we advocate for releasing the community from the burdens of mass incarceration, restoring dignity and civil rights to those impacted by the criminal legal system, and reunifying families. Our work includes legal advocacy, policy reform, public education and organizing directly impacted communities in partnership with hundreds of organizations and agencies across California and the country. As such, we strongly advocate that any and all measures should be taken to ensure the dignity, safety, and wellness of all incarcerated transgender, nonbinary, and intersex (TNI).

## **Background**

In 2020, California adopted the Transgender Respect, Agency and Dignity Act (SB 132 - Wiener) to address the historic discrimination perpetrated against transgender, nonbinary, and

intersex (TNI) people through the binary sex-based prison system and to protect incarcerated TNI people, particularly transgender women, from extremely high rates of sexual assault. Since the statute took effect in January 2021, incarcerated TNI people have reported and documented many challenges and failures with its implementation. We appreciate that CDCR, in response to prior stakeholder feedback, appears to have addressed some of the problems from the letter and spirit of SB 132 that were present in its initial proposal for these rules. We offer the following comments to encourage CDCR's compliance with SB132 and to implement it in ways that foster respect, agency, and dignity for incarcerated TNI people.

### **Automated Classification Committee Chrono & Form 128-B**

The proposed regulations direct staff to document decisions on the automated Classification Committee Chrono, as explained in current Section 3335(f) of Title 15 and on Form 128-B. Unlike elsewhere in the proposed regulations, there is no direction for staff to provide the Classification Committee Chrono on a specific timeline to individuals. The regulations also do not appear to require staff to provide a copy of completed Form 128-Bs to the affected individuals. We ask the Department to add language requiring staff to provide the Classification Committee Chrono and Form 128-B on a specific timeline, specifically within 3 business days after the actions documented.<sup>1</sup>

### **3085.2 Housing Based on Gender Identity.**

At Section 3085(c)(5)(B)(1) and 3085(d)(5)(B)(1), the amended text says:

Within a reasonable time but no later than 15 calendar days following the incarcerated person's receipt of the automated Classification Committee Chrono, the CC II (Supervisor) shall provide the incarcerated person with an opportunity to verbally raise any objections to the disapproval and shall document those objections on the CDC Form 128-B (Rev. 4/74), incorporated by reference.

We request that the Department revise "verbally" to "verbally raise or otherwise communicate any objections." We believe this language would convey the same meaning while also acknowledging that some people with disabilities require additional accessible communication options beyond the spoken word, such as sign language or Augmentative and Alternative Communication.

At Section 3085.2(e), previously proposed language has been revised in an attempt to align with the Penal Code Section 2606(c)(3)'s specification that the Department may not deny an

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<sup>1</sup> This applies to sections 3085(c), 3085.2(a)(1), and 3085.2(f)(1)(C) (automated CC chrono), and sections 3085.2(c)(2), 3085.2(d)(5)(b)(1), 3085.2(f)(1)(A), 3085.2(f)(1)(C)(1), 3085.3(b)(3)(A)(1), and 3085.3(d)(1)(D)(3) (Form 128-B).

individual's housing preference based on a factor present among other people incarcerated at the facility to which the individual seeks to transfer. While we appreciate these efforts, the currently proposed language still lacks clarity on this important point. To ensure clarity and congruence with the statute, we suggest adding to the end of section 3085.2(e)(3)(B) that "for any factor considered, the Department's documentation of its reasoning must address the presence or absence of that factor among other people incarcerated at the preferred type of facility."

### **Section 3085.3 Searching Based on Gender Identity**

At Section 3085.3(d)(1), the revised proposed text says:

"The institution PREA Compliance Manager shall refer a previously approved OSPR to the Chief Deputy Warden if a transgender, non-binary, or intersex incarcerated person exhibits management or security concerns related to their previously approved search preference. The process shall be as follows:"

This language is confusing and invites unhelpful debate about what it means to "exhibit management or security concerns." We suggest revising the sentence quoted above to say:

"The institution PREA Compliance Manager shall refer a previously approved OSPR to the Chief Deputy Warden if staff raise new individualized management or security concerns related to the previously approved search preference. The process shall be as follows:"

### **Conclusion**

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Smith', with a stylized flourish at the end.

Natalie Smith

Staff Attorney

Legal Services for Prisoners with Children