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19 UNITED STATES DISTRICT COURT  
 20 NORTHERN DISTRICT OF CALIFORNIA

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

Case No. C94 2307 CW

**STIPULATION AND ~~PROPOSED~~  
 ORDER AMENDING PAROLE FIELD  
 OPERATIONS SECTION OF  
 ARMSTRONG REMEDIAL PLAN  
 [ECF No. 937]**

1 THE PARTIES, BY AND THROUGH THEIR COUNSEL, HEREBY  
2 STIPULATE AS FOLLOWS:

3 The *Armstrong v. Davis* Court Ordered Remedial Plan, as amended January 3, 2001  
4 (the “*Armstrong* Remedial Plan”), was filed with the Court on February 27, 2001. Section  
5 IV.S of the *Armstrong* Remedial Plan, entitled Parole Field Operations, was amended by  
6 stipulation of the parties, and order of this Court, on September 11, 2006. (ECF No. 937.)

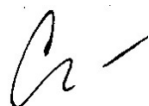
7 Following a lengthy meet-and-confer process, the parties have agreed to revise the  
8 September 11, 2006 Parole Field Operations section of the *Armstrong* Remedial Plan.  
9 Attached hereto as **Exhibit A** is the revised text of the *Armstrong* Remedial Plan section  
10 regarding Parole Field Operations agreed to by the parties.

11 The revised text attached hereto as **Exhibit A** shall hereby replace and supersede  
12 the September 11, 2006 Parole Field Operations section of the *Armstrong* Remedial Plan.

13 IT IS SO STIPULATED.  
14

15 DATED: June 9, 2023

ROB BONTA  
Attorney General of the State of California

17 By:   
18 \_\_\_\_\_  
19 Olena Likhachova  
20 Deputy Attorney General

21 Attorneys for Defendants

22 DATED: June 9, 2023

ROSEN BIEN GALVAN & GRUNFELD LLP

24 By: /s/ Benjamin Bien-Kahn  
25 Benjamin Bien-Kahn

26 Attorneys for Plaintiffs  
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~~PROPOSED~~ ORDER

Having reviewed the above Stipulation of the parties, and good cause appearing, it is ORDERED that:

The revised text attached hereto as **Exhibit A** shall hereby replace and supersede the September 11, 2006 Parole Field Operations section of the *Armstrong* Remedial Plan.

**IT IS SO ORDERED.**

DATED: 6/12/2023

By: 

The Honorable Claudia Wilken  
United States District Judge

# **Exhibit A**

### **Parole Field Operations**

It is the policy of the Department of Corrections and Rehabilitation (CDCR) to provide reasonable accommodations to parolees with disabilities to access programs and services provided by the Division of Adult Parole Operations (DAPO) and programs parolees are required to attend as a condition of their parole. Parole planning and supervision is conducted on a case-by-case basis to meet the unique needs of the parolee while protecting legitimate penological interests and consistency with the Department of Corrections and Rehabilitations policy.

### **Release Program Study**

Before an incarcerated person is released on parole supervision, the Regional Re-Entry Coordinator receives CDC form 611, Release Program Study (RPS) from institutional staff. The Regional Re-Entry Coordinator or designee shall review the “Medical/Psychiatric” and “GPL” sections of the RPS to determine if the parolee has a disability or possible learning disability. If a disability is noted, the Regional Re-Entry coordinator shall ensure the necessary source documents related to the noted disability are included with the RPS. If the source documents are missing, the Regional Re-Entry Coordinator or designee shall contact the sending institution’s records office to request a copy be immediately faxed.

### **Accommodation of Disabilities During Parole Supervision**

Parolees with disabilities must be accommodated during their supervision. The information concerning a parolee’s disabilities and needed accommodations accompanying the CDC 611 shall be placed in the ADA envelope attached to the back cover on the right side of the parole field file. Documents that are to be placed in this envelope include: CDC 128 C, CDC 128 C-1, CDC 128-1A, CDC 128 C-2, CDC 128-B (TABE), CDC 128-B (Transition to Parole Document), 128-B (Learning Disability), CDC 1845, and other CDCR approved documents identifying disabilities or needed accommodations. Additionally, if the Agent of Record (AOR) utilized written notes as a form of effective communication, it shall be retained and placed in the ADA envelope, and uploaded into the Strategic Offender Management System (SOMS). The AOR shall be familiar with the contents of this envelope, the CDC 611, and BPH 1073s if present in the field file that may identify a disability in order to provide appropriate accommodations before pre-arranged contacts with the parolee. During contacts not arranged in advance, the AOR or Officer of the Day (OD) shall ensure instructions given to parolee with disabilities affecting communication (e.g. vision, hearing, learning, developmental) are effectively communicated. In these cases, the means of effective communication used shall be documented on the Strategic Offender Management System (SOMS) Supervision Contacts (record of supervision) entry.

### **Learning Disabilities/Reading Grade Level Score of 4.0 or Below**

Parolees with learning disabilities are members of the class in the case of *Armstrong v. Newsom*.

Learning Disabilities (LD), 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 Learning Disabilities 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 Learning Disabilities include Dyslexia and Dyscalculia. A reading grade level score of 4.0 and under may also be, but is not always, an indicator that a person may have a Learning Disability.

Adults who have Learning Disabilities 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.

A parolee’s verified or unverified learning disability may be documented in SOMS, DECS, and on the CDCR Form 128-B. An individual with a learning disability may have a reading grade level score above 4.0, and not all individuals with a reading grade level score under 4.0 have a learning disability. Depending on the documentation available to institution staff, a parolee may be listed with a “verified” or “unverified” LD status. All individuals with a verified or unverified LD status shall have appropriate accommodations, including accommodations listed in the CDCR Form 128-B, provided regardless of reading grade level score.

A reading grade level score for the purposes of this plan shall be determined by a reading test approved by the National Reporting System (NRS) Adult Education.

If an incarcerated person or parolee has a reading grade level score under 4.0, the staff person should have the incarcerated person or parolee repeat or explain in his or her words, an understanding of the conditions and special conditions of parole during the initial interview and after any changes in the parolee’s special conditions of parole. This shall be documented in the Supervision Contacts in SOMS/DECS.

The fact that a field file does not contain source documents verifying a learning disability does not mean the parolee has no learning disability or does not require an accommodation to access CDCR or community programs or services.

When the parolee's field file has no documentation of a learning disability, and the parolee provides verifiable evidence of a learning disability, the AOR shall notify the Unit Supervisor (US) who shall review the submitted document(s).

DAPO shall recognize and accept as legitimate learning disability verification diagnoses from any of the following:

- A licensed psychologist
- A credentialed school psychologist
- A licensed educational psychologist

DAPO will accept as legitimate learning disability verification, a school transcript from a California public school or a non-California school, with special education "requirements equivalent to California Education Code, Sections 56333-56347, that reflect the following:

- Individualized Education Plan (IEP) denoting a specific learning disability.
- Enrollment in Special Education or section 504 classes/services denoting specific learning disabilities.

Parolees who have received special education services unrelated to a learning disability will be accommodated on a case-by-case basis.

If accepted, a copy of the document(s) shall be placed in the ADA section or envelope of the parolee's field file or scanned into the Electronic Record Management Systems (ERMS)/SOMS and the original forwarded to Parole Case Records (PCR) for placement in the parolee's field file. The original shall be accompanied with a CDCR form 1502, Activity Report, which will note the nature of the document and a request for it to be placed in the parolee's field file.

### **Processing of 1824-B's**

A parolee with a disability may request an accommodation to access CDCR authorized programs, services, and activities, or grieve alleged discrimination, through the use of the CDC Form 1824-B. The 1824-B process shall be explained to all parolees and an 1824-B shall be provided to all parolees with disabilities during the Initial Interview. DAPO staff shall ensure the 1824-B forms are readily available to all parolees. Parolees shall be able to obtain an 1824-B by requesting one from DAPO staff, and from a publicly accessible location at all parole offices. This location will either be at an accessible place in the parole office lobby or will be available upon request from the DAPO staff member at the window in the lobby. At the Initial Interview, the parolee shall be informed where they can obtain an 1824-B in the parole office. If a parole office is closed for any reason, e.g.

pandemic, the 1824-B shall be available from parole offices when open to the public, or parolees can contact their AOR to obtain an 1824-B. Additionally, DAPO staff shall assist parolees in completing and submitting an 1824-B when the parolee is unable to complete the form on his/her own due to a disability.

When a parolee submits an 1824-B, DAPO staff shall retain one copy in the field file, provide the parolee with a copy of the 1824-B, and forward the original to the Parole Litigation Management Unit (PLMU). PLMU shall maintain a tracking log of all 1824-Bs. If the parolee submits any relevant documentation with the 1824-B, the documentation shall be copied in the same manner and attached to the 1824-B.

If DAPO field staff grant or partially grant the requested accommodation or grievance, they shall document their actions on the 1824-B before making copies and forwarding it to the PLMU. After a response is completed DAPO staff shall retain a copy of the completed 1824-B in the field file.

When a parolee files an accommodation or modification request/appeal on an inappropriate form, i.e., CDC Form 602, the Unit Supervisor shall attach an 1824-B and forward the request/grievance per the normal 1824-B process.

All 1824-B's shall be processed according to the established time limit guidelines of the California Code of Regulations, Title 15, section 3084.6.

### **Effective Communication**

Reasonable accommodation shall be afforded to parolees with disabilities affecting communication (e.g. vision, speech, hearing, developmental, or learning disabilities) to ensure effective communication is achieved with staff during supervision contacts. Auxiliary aids that are reasonable, effective, and appropriate to the needs of the parolee shall be provided when standard written or oral communication is not effective. Such aids may include qualified interpreters, readers, sound amplification devices, audio taped texts, Braille materials, large print materials, and signage. DAPO staff shall also use communication techniques to achieve effective communication where appropriate, such as using short sentences and simple language, rephrasing and repeating as needed, giving extra time for questions, and asking the individual to repeat back what was said in his/her own words. A parolee's request for reasonable auxiliary aids or other reasonable accommodations for effective communication during parole proceedings shall be given primary consideration and provided unless there is a specific articulated justification for a denial of the request that is permitted under Section II.H. of the ARP. This section does not require DAPO to provide customizable aids such as hearing aids.

DAPO staff shall attempt to establish effective communication with parolees with disabilities to ensure equal access and full participation in DAPO programs services and activities. In cases where effective communication cannot be achieved, staff shall



document attempts made. Appropriate effective communication techniques must be used during all interactions with parolees. Because of the critical importance of communications involving due process or mental health care, the standard for equally effective communication is higher when a due process interest is involved, during a mental health care encounter or any parole proceeding. Communications involving such issues as conditions of parole and requirements to report or register come under this category, as well as any subsequent instruction(s) from a parole agent for which the parolee's non-compliance may result in a parole violation. The means of effective communication used shall be documented on the Supervision Contacts in SOMS using the four-step process detailed below.

When a parolee has a communication disability requiring accommodations to achieve simple oral and written communication, staff shall attempt to establish effective communication using appropriate effective communication techniques with the parolee during all contacts, including routine supervision contacts and processes, and shall document in the field file or SOMS/DECS the reasonable accommodations/modifications provided and effective communications used.

The process of providing effective communication and reasonable accommodations during these parole proceedings and supervision processes includes four critical steps:

**Step 1:** Staff shall check DECS or the SOMS to determine if the parolee has disability or communication-related needs prior to the parole proceeding or supervision process.

**Step 2:** Staff shall provide effective communication accommodations consistent with identified disability needs and primary methods of communication identified in DECS or SOMS, or chosen by the parolee. Furthermore, accommodation methods shall be appropriate to overcome disability related or other communication barrier(s).

If the parolee, using his or her primary method of communication or previously established preferred method of communication, requests, or previously requested to use another method of communication, that method may be used in place of the individual's primary method of communication. This request shall be documented in DECS/SOMS.

A parolee's alternative method of communication shall only be used during interactions not involving due process or the provision of mental health care. Even for these interactions, the parolee's alternative method of communication shall only be used if their primary method of communication is unavailable. In such circumstances, staff shall document the use of the alternative method of communication and the reason the parolee's primary method of communication was not used during the encounter. Notwithstanding the preceding, parolees who have sign language interpretation as their primary method of communication shall be accommodated using sign language for all interactions with staff, unless otherwise stated in the next section.

**Step 3:** Staff shall determine if effective communication has been achieved through an interactive process with the parolee. For example, the parolee might be asked to summarize their understanding of the discussion or material conveyed in their own words.

**Step 4:** Staff shall be thorough and accurate when documenting disabilities, accommodations, how effective communication was confirmed, and other effective communication information in DECS, SOMS, and on all relative forms utilized during parole proceedings and supervision processes.

There are situations in which effective communication may not be achieved due to the parolee's disability-related limitations. Staff shall document all reasonable efforts made to achieve effective communication in these cases, and that the parolee did not appear to understand the communication despite those efforts.

When an alternative effective communication method is provided to a parolee, or when the parolee waives an accommodation or self-identifies a preference for an alternative but equally effective method of communication not listed in DECS or SOMS during parole proceeding or supervision process, the effective communication method must be entered into DECS or SOMS via the electronic CDCR Form 2289, and the documentation must indicate it is an alternative method preferred by the parolee.

### **Communication With Parolees Who Use Sign Language**

A parolee who uses sign language as his or her primary method of communication shall not have their hands restrained in a manner that interferes with his or her ability to communicate using sign language unless required to protect the safety of DAPO staff, the general public, or the parolee. When DAPO staff determine the safety threat is no longer present, staff shall change the manner in which the parolee's hands are restrained so that they are able to communicate using sign language without interference.

If a parolee uses sign language as their primary method of communication, DAPO shall provide a Sign Language Interpreter (SLI) for all parole proceedings, including but not limited to communication of the conditions of parole, Initial Interview, any notice of changes to the parole conditions, PACT orientation, BHR, Notice Serves, Notice of MDO, NIC or SVP Hearings, and conversations with the parolee about parole violations which may lead to revocation or remedial sanctions and the possible sanctions for that violation. Sign language interpreters must also be provided for supervision processes with due process implications including but not limited to the Case Conference Review, Discharge Consideration Committee, and any Sex Offender Containment Team Meeting. If a parolee has indicated that he will not be attending these meetings an SLI appointment will not be made.

Any arrest based on a Failure to Follow Instructions charge must have as a condition precedent that the instruction was effectively communicated and understood by the parolee. An inability to prove the effective communication by a preponderance of the evidence will result in a dismissal of the charge.

Video Remote Interpreting (VRI) services should not be used in lieu of in-person sign language interpretation for parole proceedings or supervision processes with the following exceptions:

- (1) A GPS device needs to be placed on the parolee.
- (2) To communicate times and places for rescheduling.
- (3) To convey housing or program information.
- (4) To provide any other information that must be conveyed immediately.

In these circumstances, an in-person SLI shall be scheduled to complete the parole proceeding or supervision process, for the first available appointment where both the parolee and agent are available.

When staff are conducting supervision contacts outside of the parole unit without an in-person SLI such as home visits, field contacts, or employment contacts for parolees whose primary method for communication is SLI, VRI services shall be used as long as an appropriate wireless connection and clear video image can be obtained. If staff are unable to use VRI services due to safety concerns, the reason shall be documented in the automated ROS.

When VRI services are used, staff shall utilize a state-issued laptop or other device with a screen large enough to display the interpreter's and parolee's face, arms, hands, and fingers. If staff are unable to obtain a clear video image or the VRI system malfunctions, the parole proceeding or supervision process shall cease until an in-person SLI can be obtained or the VRI functionality is resolved, and staff shall document the failure and the method used to achieve effective communication in the supervision contact entry in SOMS.

VRI services are not appropriate for parolees with vision disabilities who cannot clearly see the interpreter on the screen due to low vision, or when a parolee is participating in a group setting, such as a PACT meeting. In these instances, only in-person SLI services shall be utilized. For all other parolees with hearing disabilities, their individual needs and disabilities shall be considered on a case-by-case basis when evaluating the appropriateness of VRI services.

If a SLI or VRI services are unavailable, written notes may be an appropriate accommodation in certain circumstances. Written notes may not be used as an alternate

method of communication for parolees who use sign language and do not have written notes documented as an alternate method of effective communication, unless using the process below for when a parolee requests to use written notes. If a parolee who uses SLI as a primary method of communication has a Reading Grade Level Score under 4.0, written notes may not be used as an alternate method of communication unless the parolee confirms that they can understand written notes. If a parolee with a Reading Grade Level Score under 4.0 confirms he can use written notes this shall be documented in supervision contact entry in SOMS. This verification need only occur once during the parolee's period of supervision, and an in-person SLI shall be present during this interaction. Written notes shall not be used without this verification. Notwithstanding, if both in-person SLI or VRI are unavailable, written notes may be used to communicate a future appointment to a parolee if SLI services are unavailable.

If a parolee requests that written notes be used as an accommodation, this shall be documented as an acceptable method of communication using the process described in the paragraph above, in Step 2 of Effective Communication above, and in this paragraph. If the parolee is willing to use written notes but prefers to use SLI or VRI services when they are available, then written notes shall be documented as a secondary method. SLI shall remain the primary method and shall be required for interactions in the future. In the rare occurrence in which a parolee never wants to use SLI services and prefers written notes instead, written notes shall be documented as the primary method. Some parolees may request to use SLI or VRI services solely in group settings, and written notes in other interactions; if so, this should be indicated using the comments section.

If written communication is used during parole supervision contacts, those writings must be retained in the field file.

### **Field Supervision/Office Visits**

Parole Agents shall continue to follow existing procedures as they pertain to the supervision of parolees. The services provided by parole agents for parolees at the field offices are supervision and basic counseling.

Parolees with disabilities shall be provided reasonable accommodations for equal access to DAPO services and required participation in community programs. For parolees with disabilities that limit their ability to access the parole office, due to poor or inaccessible public transportation, for instance, accommodations may include arranging for regular home visits instead of office visits. A parolee's requested reasonable accommodations shall be given primary consideration and provided unless there is a specific articulated justification for a denial of the request that is permitted under Section II.H. of the ARP. CDCR is not required to provide health care appliances or Durable Medical Equipment (DME) except as described in the "Health Care Appliances, DME, and Prescriptions" section below.

It is the mutual responsibility of the parolee and the DAPO to verify disabilities that might affect the parolee's placement in community programs, access to parole related services and the verification of credible claims of a disability in response to a request for reasonable accommodations. Parolees must cooperate with staff in the staff's efforts to obtain documents or other information necessary to verify a disability.

If accepted, a copy of the document(s) shall be placed in the ADA section or envelope of the parolee's field file and the original forwarded to case records for placement in the parolee's central file. The original shall be accompanied with a CDCR form 1502, Activity Report, which will note the nature of the document and a request for it to be placed in the parolee's central file.

### **Health Care Appliances, DME, and Prescription Medications**

The CDCR is not obligated to provide health care appliances to parolees except those appliances that are ordered in prison but received after release to parole. Any healthcare appliance received by the institution after the incarcerated person's release to parole shall be forwarded to the parole unit supervising the parolee. The parolee shall be responsible for maintenance and repair of health care appliances.

In addition, individuals requiring DME replacement of a cane, walker, or wheelchair issued by CDCR or CCHCS while the individuals were in prison are eligible for a one-time replacement of each item for up to 30 days following release to parole. This provision of the ARP and policies of CDCR and CCHCS may be changed, after notification to Plaintiffs' Counsel, if CDCR determines that the general circumstances surrounding parolee access to health care services has changed in a way that allows parolees to readily obtain replacement DME in the community during the first 30 days after release.

CDCR shall implement a process to ensure that individuals released to parole from CDCR institutions are released with their prescribed health care appliances and durable medical equipment (DME), and with a supply of their authorized medications, as discussed further below in the Medication Supply Upon Release section.

If a parolee is indigent, he/she may qualify for Medi-Cal, Medicare, or other benefits to pay for such appliances and repairs to appliances. However, on a case-by-case basis a parolee may require financial assistance for obtaining a health care appliance to effectively participate in a required community based or parole program. Parole Agents shall verify the need for the financial assistance. The CDCR may provide financial assistance to obtain health care appliances or repair such appliances on a case-by-case basis.

### **Behavioral Health Reintegration Program**

The Behavioral Health Reintegration (BHR) Program provides mental health diagnosis, evaluations, counseling, testing (as determined necessary by the clinician) and prescribing of medication. Additionally, BHR provides transitional mental health care and on occasion sustained therapeutic intervention on an outpatient basis to parolees with disabilities who have an Axis I diagnosis. Due to the nature of BHR sessions, all communications must be conducted at a heightened level of effective communication.

BHR clinicians shall review the disability status of a parolee prior to providing services and shall have access to equipment and services (e.g. qualified interpreters, sound amplification devices, large print materials, and signage) to ensure parolees participating in BHR services are afforded effective means of communication.

BHR clinicians shall document the accommodations provided, including the methods of effective communication used. If written communication is used, those writings must be retained in the BHR clinicians' file.

If a parolee's primary method of communication is sign language, a sign language interpreter shall be provided for all BHR appointments. If a parolee chooses or requests that no Sign Language Interpreter be used during BHR meetings, none will be used. This request shall be documented by the clinician. Family members shall not be used as sign language interpreters for regularly scheduled BHR services. This does not preclude BHR staff from utilizing family members as sign language interpreters in emergency situations.

BHR clinicians shall provide reasonable accommodations to parolees with documented disabilities to ensure effective communication occurs during BHR clinical case management services.

BHR clinicians account for parolee's disabilities when developing individualized needs assessments and in providing case management support such as navigating applications, referrals and linkages to associated resources and programs. This includes, but is not limited to, BHR clinicians assisting parolees with disabilities in filling out benefit applications (e.g. Medi-Cal, Social Security Disability, Supplemental Security Income, Veterans Affairs Benefits, CalFresh, and paratransit).

### **Evacuation Procedures**

In the event of an emergency requiring building evacuation, each parole office shall ensure the safe and effective evacuation of parolees with disabilities. Local evacuation procedures shall be adopted at each parole office.

## **Searches**

Parolees who have disabilities that preclude the use of standard search methods shall be afforded reasonable accommodations during searches. Such searches shall be thorough and professional with safety and security being of paramount concern. Parole agents shall advise a visually impaired parolee where and how he/she will be searched before any contact takes place. It is not necessary to advise a parolee with visual impairment regarding physical contact when necessary force is applied.

All assistive and prosthetic devices should be searched for safety of parole staff and the parolee. If the search requires the removal of a prosthetic device, a compliant parolee will be allowed to remove the device and give it to staff. The parole agent shall advise the outside agency, when booking, if the parolee has not been thoroughly searched due to a disability, so that appropriate medical or security personnel are made available to conduct a thorough search.

## **Restraints**

Parolees who have disabilities precluding the application of restraint equipment in the ordinarily prescribed manner shall be afforded reasonable accommodations. Mechanical restraints shall be applied to ensure staff safety while reasonably accommodating the parolee's disability. The following guidelines shall apply when applying restraints to disabled parolees:

- Mechanical restraints shall be applied to ensure security, while reasonably accommodating the parolee's disability.
- Mechanical restraints shall never be applied in a manner that restricts breathing, blood circulation, or causes undue physical discomfort.
- Disabled parolees with one arm or hand, in a wheelchair, or use a walker or cane shall be placed in waist chains, whenever possible.
- As noted above, a parolee who uses sign language as his or her primary method of communication shall not have their hands restrained in a manner that interferes with his or her ability to communicate using sign language unless required to protect the safety of DAPO staff, the general public, or the parolee. When DAPO staff determine the safety threat is no longer present, staff shall change the manner in which the parolee's hands are restrained so that they are able to communicate using sign language without interference.
- Mechanical restraints shall never be applied to a prosthetic limb.

- Mechanical restraints shall never be used to secure a person to a fixed object, except as a temporary emergency measure. A person who is being transported shall not be secured in any manner to any part of the vehicle.
- Escorting a physically disabled parolee who is in mechanical restraints shall be conducted in a careful and safe manner. Special attention will be given to the walking speed and path taken during escorts. Visually impaired parolees shall be assisted by means of guidance by the upper arm.

### **Transportation**

The special needs of parolees with disabilities shall be considered in transporting them. A parolee's special health care aids and appliances shall accompany the parolee upon transport. A parolee shall not be secured in any manner to any part of the vehicle with the exception of the seatbelt.

The following guidelines shall apply when transporting parolees who use wheelchairs:

- A parolee being transported for non-custody reasons, who is compliant and can self-transfer from a wheelchair, can be transported in a standard vehicle by the parole agent.
- If a parolee has disabilities requiring a special mode of transportation (i.e., boarding ramps, wheelchair lifts, handrails, etc), parole agent shall coordinate transportation services (e.g., with CDCR institution transportation for Alternative Custody Program releases; paratransit services, etc.).
- If the parolee is being transported for custody reasons and is compliant and can self-transfer from a wheelchair, a parole agent can transport.

If the parole agent preparing the CDC Form 1018, Transportation Request, knows that a parolee in local custody has a disability and requires assistance to enter or exit a vehicle, the agent will note that information on the 1018.

Class members releasing from CDCR to parole whose disabilities make it impractical for them to use public transportation to travel from the releasing prison to their county of parole supervision shall be transported to their county of parole by CDCR, unless the class member has other means of transportation, such as family, friends, or program staff.

DAPO will attempt to coordinate with local county jails to allow parole agents to pick up parolees upon release from county jail. In counties where DAPO has an agreement, DAPO shall attempt to coordinate with county jail when class members whose disabilities make it impractical for them to use public transportation for transportation/pickup of parolees upon release from county jails. Parties understand that



DAPO does not have control over county jail releases. In some cases, the county jails may refuse to coordinate with DAPO. In other cases, specific circumstances may lead to an individual being released without coordination outside the control of DAPO.

Additionally, in some cases, parties understand that even with an agreement, it may be impractical to pick up a parolee, for example, if insufficient notice of the release is provided by the county jail.

Once individuals with disabilities are in the community under supervision, Parole Agents shall also provide transportation assistance to DAPO required meetings and programs whenever possible to parolees whose disabilities make other means of transportation impractical, and, on case-by-case basis as a reasonable accommodation for a disability, may consider providing parolees transportation assistance to non-mandatory meetings and appointments that are in furtherance of the transition to parole (such as with benefits providers, health care providers, reentry service providers, and government agencies), particularly in the initial phase of parole, when relationships with service providers like paratransit organizations may not yet be established.

Parole Agents shall also assist parolees by sharing information about local paratransit organizations and independent living organizations, and shall assist parolees in requesting assistance from BHR social workers.

### **Transition to Parole**

#### **a. Tracking of Class Members in CDCR Funded Transitional Housing Programs and on Waitlists for Such Programs**

A tracking log shall be maintained for parolees with disabilities in CDCR-funded transitional housing programs, including the Specialized Treatment for Optimized Programming (STOP) programs, as well as other CDCR-funded transitional housing programs that do not go through the STOP network, including the Transitional Housing Program (THP) for lifers who parole, the Parolee Service Centers (PSCs), and all other CDCR-funded transitional housing programs. The tracking log shall identify the disability codes that the individuals had while housed in the CDCR, including DPP codes, DDP codes, and mental health level of care information, and shall indicate whether someone has a verified learning disability or a 128-B chrono for an unverified learning disability.

The tracking system will also document the names and disabilities of all parolees with disabilities on the waiting list for CDCR-funded transitional housing programs, including STOP programs.

CDCR shall provide Plaintiffs' Counsel with a monthly production of the tracking logs described above.

**b. Placement of 1824-B Appeal Forms in Transitional Housing Programs**

Blank 1824-B Reasonable Accommodation Request forms and stamped pre-addressed envelopes for mailing them to DAPO shall be maintained in all STOP programs and all other CDCR-funded transitional housing programs for CDCR parolees. A readily available supply of the forms and pre-addressed stamped envelopes shall be placed in an accessible public location that parolees can freely access without asking staff for the forms or envelopes.

**c. Annual Inspection of ADA Features of STOP Programs**

As part of its contract with each STOP Regional Organization, there is currently a required annual inspection of each facility by the quality assurance managers in each Regional STOP program administrator. That inspection will be expanded to cover ADA assets and features in each individual transitional housing program. This inspection will be for assets and features that can be inspected by an individual without special expertise in accessible architectural features. The inspection shall also include checking to see if 1824-B forms and stamped pre-addressed envelopes are readily available in each STOP program, and checking whether the *Armstrong* informational poster is properly posted in an accessible location in each program.

**d. Non-Discrimination and Accommodations in CDCR-Contracted Programs Including Transitional Housing**

In its contracts with STOP Regional Contractors and other transitional housing providers, CDCR shall maintain the current requirement that contractors comply with the ADA. DRP shall regularly provide information and education to STOP contractors on their obligations to provide reasonable accommodations to parolees with disabilities and on the resources available from CDCR and in the community to comply with those obligations.

When it comes to CDCR's attention that a STOP program is improperly refusing to accept or refusing to continue to house class members based on their disability, or that the program is refusing to provide reasonable accommodations to a class member on parole, CDCR shall demand that the STOP program comply with its contractual obligations and promptly engage with the program to determine whether it is appropriate to provide any education, training, counseling, or other resources, not including nursing or medical care, to bring the STOP program into compliance. If CDCR is unable to promptly resolve the issue in this manner, CDCR shall take any and all available steps to address the program's failure to follow its contractual obligations to comply with the ADA up to termination of the contract if necessary.

Plaintiffs agree that not every STOP program or other transitional housing program is required to have DPW-accessible housing, so long as there are sufficient wheelchair-accessible beds in each STOP region and in each type of CDCR-funded transitional

housing program to serve the DPW parole population. If a particular type of CDCR-funded housing program is only offered in certain geographic areas, CDCR is only required to ensure that this type of housing program has sufficient wheelchair-accessible beds to serve the DPW parole population on a statewide basis, but if a particular type of CDCR-funded housing program has sites in both Northern and Southern California, CDCR shall ensure that said program has sufficient wheelchair-accessible beds in both DAPO's Northern Region and Southern Region.

Parties agree that even with a sufficient number DPW beds, there may be some rare cases where an appropriate bed cannot be located for an individual class member in the STOP region. If a DPW parolee requests transitional housing, but there is no suitable wheelchair accessible bed available in their STOP region in a transitional housing program that is able to accept them, Defendants shall make every effort to place them in a wheelchair accessible bed in their county of preference or else in a transitional housing program that is as close as possible to the county of parole taking into account the preferred location of the parolee or the location of their family members.

Parole Agents shall collaborate with CDCR-contracted program providers to ensure parolees with disabilities are reasonably accommodated and that effective communication is established with parolees with disabilities affecting communication in all CDCR-funded programs. Examples of reasonable accommodations include special equipment such as:

1. Magnifying devices
2. Sound amplification devices
3. Braille materials
4. Bilingual interpreter services
5. Sign Language Interpretation services
6. Modifying work or program schedules
7. Grab bars installed for parolees with mobility disabilities

Parole agents shall immediately notify PLMU in writing upon becoming aware of any problems with the provision of reasonable accommodations by a contractor, or that any contractor is refusing to accept or refusing to continue to house class members because of their disability. The preceding notification requirement does not apply to a contractor that is unable to accept a class member who uses a wheelchair because the contractor has no wheelchair-accessible beds, or because all of the contractor's wheelchair-accessible beds are not available because they are currently housing other persons who use wheelchairs. Parole agents shall also immediately notify PLMU in writing if a parolee

cannot be placed into a CDCR-contracted program due to the parolee's disability and make reasonable attempts to place the parolee in any other CDCR program within the state and notify PLMU via email.

**f. CCHCS Clinical Assessment for Releasing Class Members**

CCHCS will provide a clinical assessment (dashboard) regarding each parolee's disability and related medical needs that may be utilized by the Parole Service Associate (PSA) in making referrals for transitional housing placements and other post-release programs and services. This information shall be continuously shared with the PSA in each CDCR institution, and to the Parole Agent and BHR Social Worker, assigned to the parolee.

**g. Parole Violation Standard Review Process Augmentation and Training**

Whenever a parole agent is considering a possible parole violation, the agent must check SOMS and DECS to identify whether the parolee has a disability, and take into account whether a failure to accommodate the disability or the disability itself impacted the parolee's ability to understand and/or comply with the condition or conditions of parole the parolee is alleged to have violated. The agent shall also take any such disability-related difficulties in complying with a condition or conditions of parole into account when determining the appropriate penalty for a parole violation.

The parole agent shall case conference with a supervisor after any suspected parole violation and determine if the parolee's disability impacted their ability to understand and/or comply with the condition of parole. If DAPO staff determine, under a totality of the circumstances, that absent the parolee's disability, the violation may not have occurred, the parolee may be continued on parole or the case may be dismissed. For example, if a parolee is required by law to participate in GPS monitoring but has a disability that may impact their ability to remember to charge their GPS device, DAPO staff shall consider whether the parolee's disability prevented them from charging the GPS device and whether the parolee did not knowingly allow the GPS device to run out of batteries. If this is determined to be the case, the charge may be dismissed or the parolee may be continued on parole.

Training and policies and procedures shall be provided to Agents, Supervisors and Administrators requiring that, in instances where a disability has played a role in the non-compliance of a parolee with conditions of parole, they must evaluate whether to decline to revoke parole, to mitigate the recommended sentence for a revocation, or to pursue remedial sanctions.

**h. Accommodations for Parolees With Disabilities When Employing GPS Monitoring**

Parole agents shall have access to GPS devices which have an option for an audible low battery warnings as an accommodation for parolees with mobility disabilities who cannot feel the low battery warnings using vibrations due to lower extremity paralysis or nerve damage, and to other reasonable accommodations, including wrist GPS monitors for parolees with disabilities. In certain cases, a battery pack may be a reasonable accommodation. The Annual ADA Training for Parole Agents shall address the importance of hardware-related accommodations for parolees with disabilities who may struggle to keep their GPS devices charged without such accommodations, and the importance of effective communication—including frequent reminders and prompts—for class members with developmental and other cognitive/intellectual or psychiatric disabilities that may affect their ability to consistently remember to charge their GPS devices.

**j. Medication Supply Upon Release**

Parolees and individuals released to Post Release Community Supervision shall be provided a 60-day supply of their authorized medications upon release from CDCR, except for exceptions provided in current policy. (See CCHCS policy, “60-Day Supply of Release Medications,” issued February 15, 2022, or updated versions thereafter.) This provision of the ARP and CCHCS policy may be changed, after notification to Plaintiffs’ Counsel, if CCHCS determines that the general circumstances surrounding parolee access to health care services has changed in a way that makes supplying the full 60 days of medication unnecessary to avoid medication gaps as individuals transition to parole. With respect to medication needs upon release, parolee needs will continue to be assessed individually.

**k. Benefits Assistance Prior to Release**

The contract for the Transitional Case Management Program (TCMP) to assist individuals leaving prison with benefit applications shall mandate that TCMP workers file completed benefit applications as soon as possible, and no later than 90 days before the individual is scheduled to be released from prison unless TCMP is provided the parolee’s release date less than 120 days prior to release. The contract will also require the collection and annual evaluation of data regarding (1) whether benefit applications are approved, rejected, or remain pending at the time of release, and (2) the time frame prior to release when TCMP benefits workers submit applications for releasing individuals.