

## Memorandum

Date:

February 7th, 2019

To:

Associate Directors, Division of Adult Institutions Wardens

Classification and Parole Representatives Correctional Counselors || Correctional Counselors |

Subject:

**CORRECTED REVISION TO FAMILY VISITING (OVERNIGHT) OFFENDER ELIGIBILITY**

The purpose of this memorandum is to announce changes to the California Code of Regulations (CCR), Title 15, affecting the Family Visiting (Overnight) program and to provide direction to staff regarding implementation of these regulatory changes. The California Department of Corrections and Rehabilitation (CDCR) recognize the value of visitation as a means to improve the safety of prisons and to establish and maintain meaningful connections with family and the community. The Family Visiting (Overnight) program is intended as a privilege to incentivize positive programming while also allowing inmates to build stronger bonds with their family during incarceration. These regulatory changes will bring CCR, Title 15, Section 3177 Family Visiting (Overnight) current with California Penal Code, removing the exclusion of family visiting for inmates with life sentences.

**Case-by-Case Review** Changes to CCR, Section 3177 will allow for a case-by-case review of Family Visiting (Overnight) privileges for inmates previously excluded as a result of crime(s) committed against a minor or a family member. If the offense against a minor or family member occurred when the inmate was a minor (under the age of 18), the inmate must demonstrate sustained, positive behavior for the five years immediately prior to submitting a family visiting application. If the offense against a minor or family member occurred

when the inmate was an adult, the inmate must demonstrate sustained, positive behavior for the ten years immediately prior to submitting a family visiting application. For the purpose of the Family Visiting (Overnight) program, sustained documented participation in self-help groups shall be determined on a **case-by-case** basis during the Unit Classification Committee (UCC). The lack of available institution programming shall not be counted against the inmate when determining self-help group participation. Meeting the criteria outlined in CCR, subsection 3177(b)(1)(B) or CCR subsection 3177(b)(1)(C) does not automatically qualify an inmate for Family Visiting (Overnight) privileges. The committee conducting the case-by-case review must still consider the circumstances of the offense against the minor or family member and determine whether the inmate poses a threat of harm to visitors during a Family Visit (Overnight). The UCC may refer more complex cases to the Institutional Classification Committee (ICC) for evaluation. Once an inmate is granted Family Visiting (Overnight) privileges as a result of a case-by-case review,

Associate Directors, Division of Adult Institutions  
Wardens

#### Classification and Parole

Representatives Correctional

Counselors || Correctional

Counselors | Page 2

all future applications and any misconduct will be addressed through the standard Family Visiting (Overnight) process; an additional case-by-case review will not be required unless the inmate commits a new crime against a minor or a family member.

Upon approval of Family Visiting (Overnight) privileges by a UCC, the Correctional Counselor shall complete a CDCR Form 128-B, General Chrono, noting the approval and any restrictions, and forward a copy of the CDCR Form 128-B and the Family Visiting (Overnight) application to the Family Visiting Coordinator. The Family Visiting Coordinator will have 30 calendar days to schedule the Family Visit (Overnight). The actual family visit does not need to be within the 30 calendar days. The entire process from date the correctional Counselor received the application to the date the Family Visit (Overnight) is scheduled should be no more than 90 calendar days.

**Mandatory Penalties for Inmate Discipline** CDCR has also made changes to inmate discipline, including the addition of mandatory penalties for identified offenses

that shall impact an inmate's Family Visiting (Overnight) privileges. New mandatory loss of Family Visiting (Overnight) privileges imposed as a result of a guilty finding for an identified offense shall be applied prospectively, which means, the first disciplinary action after the implementation date will be considered the first disciplinary action when considering loss of family visits, regardless of how many previous violations the inmate has received. Beginning the effective date of the revised regulations, inmates shall lose Family Visiting (Overnight) privileges for violation of the following subsections:

- Controlled Substances, 3016(a) with the exception of alcohol violations  
Methods for Testing of Controlled Substances or for Use of Alcohol,  
3290(d) Contraband, 3006(a) and 3006(c)(20)

•  
CDCR has also revised the mandatory penalty for violation of CCR, subsection 3016(d), Distribution of a Controlled Substance, to include loss of Family Visiting (Overnight) privileges for the first and second guilty findings (3 years and 7 years respectively) and permanent exclusion imposed for a third guilty finding. Upon implementation of the revised regulations, all inmates, including inmates with previous guilty findings for Distribution of a Controlled Substance, shall have loss of family visits applied prospectively, meaning the first disciplinary action after the implementation date shall result in loss of Family Visiting (Overnight) privileges consistent with the first offence, regardless of how many previous violations the inmate has received. Furthermore, inmates who were excluded from Family Visiting (Overnight) solely due to a previous guilty finding for Distribution of a Controlled Substance shall have the exclusion removed and shall be allowed to apply for Family Visiting (Overnight) privileges.

Associate Directors, Division of Adult Institutions Wardens Classification and Parole  
Representatives Correctional Counselors | Correctional Counselors | Page 3

**Additional Information** Wardens shall ensure all staff, particularly counseling staff are provided access to this memorandum. Training related to the implementation of these regulations is required for all staff involved in the Family Visiting (Overnight) approval process. Initial training for Wardens and counseling staff will be provided via conference call during the first week of February. Wardens shall ensure staff training is completed for their institution, and staff shall provide a proof of

practice certification memorandum to their respective Mission Associate Director within 30 days from the date of this memorandum. The title, "Implementation, Family Visiting (Overnight) Regulations," should be noted on the CDCR Form 844 Training Participation Sign-in Sheet, with BET Code 11059560.

If you have any questions, please contact [REDACTED]  
[REDACTED]  
[REDACTED]

CONNIE GIPSON Director (A) Division of Adult Institutions

cc: Ralph M. Diaz

Kathleen Allison Sandra Alfaro Brian Moak **Matthew Rustad**