

DATE: February 9, 2023 **AGENDA ITEM:** F

TO: BSCC Chair and Members

FROM: Allison Ganter, Deputy Director, allison.ganter@bscc.ca.gov

SUBJECT: Adult Title 15 Regulations: Final Approval of Proposed Regulations for Submission to Office of Administrative Law: **Requesting Approval**

Summary

BSCC staff is requesting Board approval of modified text for sections 1030 (suicide prevention program) and 1065 (exercise and recreation) of the Title 15 Regulations for Adult Local Detention Facilities (Cal. Code Regs., tit. 15, §§ 1000-1280). BSCC staff initiated the required 15-day public comment period on December 23, 2022, after the Office of Administrative Law requested clarifying language in the two regulations.

Background

The Board is required to review minimum standards for local detention facilities biennially and make appropriate revisions pursuant to Penal Code section 6030, subdivision (a). At its April 11, 2019, meeting, the Board directed staff to begin the adult Titles 15 and 24 regulations review and revision process. A detailed timeline of the ESC process and all available material is located at: <https://www.bscc.ca.gov/adult-titles-15-and-24-regulations-revision/>

The Board approved proposed changes to the Title 15 Regulations for Adult Local Detention Facilities (Cal. Code Regs., tit. 15, §§ 1000-1280) on November 18, 2021, and directed staff to begin the rulemaking process for adoption and implementation. After two public comment periods in accordance with Office of Administrative Law (OAL) requirements, final rulemaking documents were submitted to the OAL on October 5, 2022.

During its review, the OAL approved BSCC's proposed regulations for an effective date of January 1, 2023, except for sections 1030, Suicide Prevention Program and 1065, Exercise and Recreation. OAL informed BSCC staff that the proposed text of sections 1030 and 1065 did not meet the clarity standard of Administrative Procedures Act (Gov. Code, § 11340 et seq.) and required additional modifications. BSCC staff drafted modified text to include feedback from OAL staff to ensure that the proposed regulations can be correctly interpreted.

BSCC staff published this modified text for a second 15-day comment period from December 23, 2022 through January 8, 2023. Several comments on the proposed action were received, and BSCC staff responded to those comments in the final statement of reasons (attached). With the Board's approval, BSCC staff will resubmit those sections for adoption with an estimated effective date of April 1, 2023.

Recommendation/Action Needed

1. Approve the modifications to text of proposed regulations in Attachment F-1.
2. Approve the final rulemaking package.
3. Direct staff to submit the final rulemaking package to the Office of Administrative Law including the modified text of the proposed regulations, final proposed regulations, final statement of reasons, and any other final rulemaking documents required by the Administrative Procedures Act.

Attachments

- F-1: Modified Text of the Proposed Regulations
- F-2: Final Proposed Adult Title 15 Regulations Revisions
- F-3: Adult Title 15 Final Statement of Reasons