

DATE: February 8, 2018 **AGENDA ITEM:** F

TO: BSCC Chair and Members

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

SUBJECT: Juvenile Title 15 and Title 24 Regulations Revision: Final Proposed Revisions: **Requesting Approval**

Summary

Pursuant to Welfare and Institutions Code sections 210 and 885, the Board of State and Community Corrections is required to adopt minimum standards for the operation, design and construction of juvenile detention facilities. The Board directed staff to begin a review and revision of the Minimum Standards for Juvenile Facilities at its November 2016 meeting.

BSCC staff is requesting approval of the Executive Steering Committee (ESC) recommendations for regulation revisions, and approval to proceed with the 45-day public comment period in accordance with the Administrative Procedures Act for regulation revision and adoption.

In addition, the ESC was unable to reach consensus as to whether staffing ratios should be changed as part of the recommended changes to Title 15, Section 1321, staffing. The Board should determine appropriate action on Section 1321.

Background

At its November 2016 meeting, the BSCC Board directed staff to begin the Juvenile Title 15 and Title 24 regulation revision process and appointed Board Members Michelle Brown and David Steinhart as co-chairs of the Juvenile Regulations Revision ESC.

Prior to the appointment of the co-chairs, the BSCC staff had sought public comment on whether current regulations reflected best practices, research and statutes governing juvenile detention. For the first time, the BSCC sought and received extensive public comment from youth currently confined in detention facilities, an effort that was lauded by both advocates and practitioners alike. The JJSC and SACJJDP held a special joint meeting on September 13, 2016 to discuss topics for possible inclusion in the regulations revision process. Staff also surveyed facility administrators and operators, juvenile justice advocates, medical and mental health experts, experts in adolescent healthcare and stakeholders.

Following receipt of the initial round of public comment the BSCC then solicited ESC membership from a cross-section of Californians with diverse experience and expertise. The Juvenile Regulations Revision ESC convened in March 2017.

BSCC staff presented the ESC with more than 200 pages of public comment that addressed issues such as staffing ratios, use of chemical agents, trauma-informed care, programming for youth, adolescent brain development and other pertinent issues.

Based on the written public comment public comment and in-person testimony from stakeholders, the ESC developed recommendations for eight subject-matter workgroups to address each section of the regulations. The workgroups were:

1. Administration
2. Classification, Segregation and Discipline
3. Programs
4. Education
5. Medical and Mental Health
6. Nutritional Health
7. Environmental Health
8. Physical Plant (Title 24)

Before the groups began their work, BSCC staff sought and received further public comment on each of these eight topics. After a statewide recruitment of subject matter experts, advocates and stakeholders, the workgroups convened in June and July 2017. The groups considered the public comment – as well as their own expertise and experiences – to draft proposed revisions to the regulations.

The ESC met to consider the workgroup's proposals on September 6-7 and November 15, 2017.

After considering the workgroup recommendations and additional public comment, the ESC developed final recommendations for proposed revisions for approval by the Board. The ESC approved most of the workgroup recommendations and made modifications to others. Attachment F-1 contains the ESC's proposed regulation revisions.

Highlights of the ESC-approved regulation revisions include: revised definitions to reflect current practices; changes to regulations requiring more detailed reporting of use of force incidents; assuring that chemical agents will be employed only after sufficient attempts at de-escalation of potentially violent situations; use of trauma-informed care considerations, where appropriate; ensuring transition and aftercare plans; adding standards for room confinement that reflect current law; and ensuring that youth will be allowed to have their own underwear throughout their stay.

However, despite much consideration and discussion, neither the ESC nor the workgroups were able to come to consensus on revising staffing ratios. Current ratios for juvenile hall are one staff member for every 10 youth during the day, and in camps one to 15 during hours that youth are awake during the day. For both, regulations currently call for one staff for every 30 youth during sleeping hours. Both the ESC and workgroups received extensive public comment in support of lowering staffing ratios to one to eight during hours that youth are awake day in all facilities and one to 16 during sleeping hours. After a lengthy discussion that covered practical, programmatic and fiscal considerations, the ESC voted on the question of lowering ratios, but deadlocked, with half voting to keep current ratios and half voting to revise the regulation to reflect the lower ratios.

Attempts at a compromise included allowing facilities to apply for a waiver that would allow locals additional time for compliance with lower staffing ratios.

The ESC did not make a recommendation on staffing ratios, and requested that the full Board “be fully informed of all the elements of discussion and have a wider range of options.” Those options were:

- Leaving the ratio as it exists in current regulations;
- Recommending the 1:8 ratio (which would mirror federal PREA standards)
- Allowing local agencies time to meet the 1:8 ratio by applying for a waiver
- Allowing other staff such as teachers and program administrators to count toward the 1:8 ratio (Which would not meet PREA standards)
- Adjusting the ratio depending upon day of the week and time of day
- Allowing agencies to seek Alternative Means to compliance

The ESC requested that the full Board consider the options and determine an appropriate action on staffing regulation. (Attachment F-2)

Upon BSCC approval, staff will prepare the documents necessary to begin the Administrative Procedures Act process, including publication in the California Notice Register. Staff will also schedule public hearings in accordance with the APA.

Recommendation/Action Needed

1. Staff recommends that the Board approve the ESC’s proposed revisions in Attachment F-1.
2. Staff recommends that the Board discuss and determine an appropriate action on Title 15, section 1321, Staffing.
3. Staff recommends that the Board direct staff to begin the Administrative Procedures Act and publish notice of regulatory action in the California Regulatory Notice Register.

Attachments

F-1: Juvenile Titles 15 and 24, Proposed Revisions in Strike Out and Underline.

F-2: Options for Title 15, Section 1321. Staffing