

**State of California
Office of Administrative Law**

In re:
**Department of Corrections and
Rehabilitation**

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections:

Amend sections: 3294.5

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6, and Penal Code Section 5058.3**

OAL Matter Number: 2018-0802-04

**OAL Matter Type: Emergency Operational
Necessity (EON)**

The Department of Corrections and Rehabilitation proposed this action to amend a regulation that provides procedures for inmates and parolees to change names. The proposed action makes the regulation consistent with S.B. 310 (Stats.2017, c. 856), which amended Code of Civil Procedure section 1279.5 to allow inmates and parolees to petition a court directly for name changes.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code, and section 5058.3 of the Penal Code.

This emergency regulatory action is effective on 9/1/2018 and will expire on 2/9/2019. The Certificate of Compliance for this action is due no later than 2/8/2019.

Date: August 20, 2018



**Richard L. Smith
Senior Attorney**

**For: Debra M. Cornez
Director**

**Original: Scott Kernan, Secretary
Copy: Rosie Ruiz**

NOTICE PUBLICATION/REGULATIONS SUBMISSION

See instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2018-0802-04	EMERGENCY NUMBER EON
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For use by Office of Administrative Law (OAL) only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

AUG 20 2018
2:47pm

2018 AUG -2 P 3:48
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Corrections and Rehabilitation

AGENCY FILE NUMBER (if any)

18-0234

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Inmate and Parolee Name Change	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 3294.5
	REPEAL
TITLE(S) 15	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Emergency Op. Necessity PC 5058.3</u>	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11343.5; Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective on other (Specify) <u>request September 1, 2018</u>

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON

Rosie Ruiz

TELEPHONE NUMBER

(916) 445-2244

FAX NUMBER (Optional)

(916) 324-6075

E-MAIL ADDRESS (Optional)

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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Diana Toche

DATE

8/2/2018

TYPED NAME AND TITLE OF SIGNATORY

Diana Toche, Undersecretary, Health Care Services

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 20 2018

Office of Administrative Law

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates new or additional text and ~~strikethrough~~ indicates deleted text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

Chapter 1, Rules and Regulations of Adult Operations and Programs

The title of Section 3294.5 is amended to read:

Section 3294.5. Inmate and Parolee Name Change.

Subsection 3294.5(a) is amended to read:

(a) ~~An~~ inmate or parolee requests who wishes to petition the court for a legal name change shall submit a CDCR Form 2010 (06/18), Notice of Legal Name Change Petition, which is incorporated by reference, with a copy of all documents submitted to the court to initially be reviewed by the Warden or Regional Parole Administrator (RPA) at the time the petition is submitted to the court who shall either recommend approval for a legal name change or deny the request for a legal name change.

Subsection 3294.5(b) is amended to read:

(b) Upon receipt from the court, the inmate or parolee shall provide a copy of the Order to Show Cause (OSC) to the Warden or RPA within three calendar days of receipt.
~~If the request is denied, the Warden or Regional Parole Administrator shall respond to the inmate or parolee in writing with the reasons for denial. A copy of the denial shall be placed in the miscellaneous section of the inmate/parolee's central file.~~

Subsection 3294.5(c) is amended to read:

(c) Upon receipt of the CDCR 2010 by the Warden or RPA, a Correctional Counselor (CC) II or the Division of Adult Parole Operations (DAPO) Regional Litigation Coordinator shall be assigned to conduct a review of the inmate or parolee's records. Within ten business days of receipt, the assigned CC II or DAPO Regional Litigation Coordinator shall document their review in a memorandum with a recommendation provided on the CDCR Form 2010 to the Warden or RPA. This review shall include the research, evaluation, and documentation of the following:

Subsections 3294.5(c)(1) through (c)(5) are adopted to read:

- (1) Commitment offense(s).
- (2) Whether the inmate or parolee is required to register pursuant to Penal Code Section 290.

- (3) Identification of victim(s) name(s).
- (4) Whether the requested name is offensive (for example, racial epithets, vulgar, or a racial slur) or could be disruptive in an institution setting.
- (5) Whether there is documentation indicating the request is intended for a fraudulent purpose.

~~If the Warden finds reasons that exist to warrant an inmate's request for a name change, then the Warden shall forward the request to the Institutions Division Regional Administrator, along with a memorandum listing the reasons for recommending approval. A copy of the memorandum shall be placed in the miscellaneous section of the inmate's central file.~~

Subsection 3294.5(d) is amended to read:

(d) Within three business days of receipt, the Warden or RPA shall review the recommendation provided by the assigned reviewer and document their recommendation on the CDCR 2010. The Warden or RPA shall ensure a copy of the memorandum and the CDCR Form 2010 is scanned and placed into the miscellaneous section of the inmate or parolee's central file via the Electronic Records Management System (ERMS), as defined in section 3000.

~~If the regional parole administrator finds reasons that exist to warrant a parolee's request for a name change, then the regional parole administrator shall forward the request to the deputy director, Division of Adult Parole Operations (DAPO), along with a memorandum listing the reasons for recommending approval. A copy of the memorandum shall be placed in the miscellaneous section of the parolee's central file.~~

Subsection 3294.5(e) is amended to read:

(e) If there is cause to object to the petition, within one business day after completing the review, the Warden or RPA shall forward the memorandum, petition, OSC, any supporting documents and the CDCR Form 2010 to the Office of Legal Affairs (OLA) at Headquarters for review. OLA shall review the recommendation within five business days to determine if an objection is warranted. If OLA determines the objection is warranted, OLA shall seek assistance from the Office of the Attorney General to file an objection to the name change with the court.

~~If the Division of Adult Institutions regional administrator or the deputy director, DAPO, agrees with the recommendation to approve the request for a name change of an inmate or parolee, a letter shall be forwarded to the court explaining why the Department is recommending approval for a name change, along with the inmate/parolee's request. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file.~~

Subsection 3294.5 (f) is amended to read:

(f) If a court order denying a petition is received from the court, the Division of Adult Institutions regional administrator or the deputy director, DAPO, denies the request for a name change of an inmate or parolee, a letter shall be forwarded to the inmate or parolee with the reasons for denial. A copy of the court order letter shall be scanned and placed in the miscellaneous section of the inmate / or parolee's central file via ERMS.

Subsection 3294.5 (g) is amended to read:

~~(g) Upon~~ Within five business days of receiving final approval from the court a certified court order granting a ~~with the ordered name change and receiving departmental approval, the Correctional Case Records Manager (CCRM) shall ensure the new name is reflected within the Strategic Offender Management System (SOMS), as defined in section 3000. Once the new name is changed within SOMS, the inmate shall be provided an updated identification card reflecting their new name and shall be charged for the replacement cost unless the inmate has been determined to be indigent as defined in section 3000. The CCRM shall notify the inmate or parolee, the inmate's assigned correctional counselor, inmate assignment office, facility mailroom, receiving and release, and visiting room, and the Office of Victim and Survivor Rights Services of the name change if the offender is incarcerated; or shall notify the agent of record if the offender is on parole. The court order shall be placed in the miscellaneous section of the inmate / or parolee's central ERMS file, along with any other documents related to the request for a name change.~~

Subsections 3294.5 (h) through (j) are deleted:

~~(h) The mailroom and visiting room staff of the facility shall update their records to reflect the additional name of the inmate.~~

~~(i) The original commitment name of the inmate or parolee shall remain on all departmental records and shall continue to be used on all departmental records.~~

~~(j) The new legal name change shall be entered into the Offender Based Information System (OBIS) under the section "Also Committed As."~~

Subsection 3294.5(k) is renumbered to 3295(h) and is amended to read:

~~(k h)~~ The inmate shall be notified to inform all persons who may visit or write ~~him/her~~ them that they must use the inmate's departmental identification number when using the inmate's new name.

Subsection 3294.5(l) is deleted:

~~(l) If the court ordered name change is received without departmental approval, this clearly indicates that the inmate/parolee has not followed proper procedure to legally change his/her name. In this case, the warden or regional parole administrator shall notify the issuing court in writing that the name change cannot legally be changed without the Secretary's approval pursuant to the Code of Civil Procedure, Section 1279.5. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file and a copy shall be provided to the inmate/parolee.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Section 1279.5, Code of Civil Procedure.

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STATE OF CALIFORNIA
NOTICE OF LEGAL NAME CHANGE PETITION
CDCR 2010 (06/18)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

INMATE/PAROLEE INFORMATION

Inmate/Parolee Name: _____ CDCR #: _____ Housing/Parole Unit: _____

Proposed Name on Petition: _____

Date Petition Submitted to Court: _____

Requested Court Hearing Date (If Applicable): _____

Documents Included with Notice: _____

Date Petition submitted to Warden/Regional Parole Administrator (RPA): _____

Inmate/Parolee Signature: _____ Date Signed: _____

WARDEN/REGIONAL PAROLE ADMINISTRATOR REVIEW:

Date Petition Received: _____

Assigned Reviewer: _____

Date Due: _____

Reviewers Recommendation:

Concur with Name Change Petition: ☐

Object to Petition: ☐

Reviewer: _____ Title: _____ Signature: _____ Date Completed: _____
(Print Name)

Warden/Regional Parole Administrator Decision:

Concur with Name Change Petition: ☐

Object to Petition: ☐

Warden/RPA: _____ Signature: _____ Date Completed: _____
(Print Name)