

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

2026 OAL DETERMINATION NUMBER 4

(OAL MATTER number CTU2026-0213-01)

REQUESTED BY: Kwesi Muhammad

CONCERNING: Office of Appeals decision, dated January 28, 2026; Office of Grievances decision, dated November 4, 2025; and memorandum titled “Inmate Docket Information,” dated March 28, 2022, all issued by the California Department of Corrections and Rehabilitation

DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. OAL review is limited to the sole issue of whether the challenged rule meets the definition of “regulation” as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA).

If a rule meets the definition of “regulation,” but was not adopted pursuant to the APA and should have been, it is an underground regulation as defined in California Code of Regulations (CCR), title 1, section 250.¹ Nothing in this analysis evaluates the advisability or wisdom of the underlying action or enactment.

¹ “Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA. (Cal. Code Regs., tit. 1, § 250, subd. (a)(1).)

CHALLENGED RULE

The challenged rule is a policy of the California Department of Corrections and Rehabilitation (CDCR) to not provide printouts of court docket information to incarcerated persons in CDCR libraries. This policy is articulated in at least the following written materials issued by CDCR: an Office of Appeals decision, dated January 28, 2026 (OOA Decision), an Office of Grievances decision, dated November 4, 2025 (OOG Decision), and a memorandum titled "Inmate Docket Information," dated March 28, 2022 (Inmate Docket Info Memo). A copy of the OOA Decision, the OOG Decision, and the Inmate Docket Info Memo are attached hereto as Exhibit A.

DETERMINATION

OAL determines that the challenged rule is a rule meeting the definition of a "regulation" that CDCR should have adopted pursuant to the APA but did not. The challenged rule, therefore, is an underground regulation.

FACTUAL BACKGROUND

On February 13, 2026, OAL received from Kwesi Muhammad (Petitioner) a petition challenging the policy of CDCR to not provide printouts of court docket information to incarcerated persons in CDCR libraries. This policy is articulated in CDCR's OOA Decision, OOG Decision, as well as the Inmate Docket Info Memo, which was previously challenged by another petitioner.

The current petition concerns the same policy issued and implemented by CDCR which CDCR certified to OAL that it would no longer issue, use, enforce, or attempt to enforce.² That certification of non-use, dated September 19, 2023, and received by OAL on September 22, 2023, was pursuant to OAL Matter Number CTU2023-0728-02 and concerned the Inmate Docket Info Memo.³

On April 14, 2026, OAL accepted the petition from Kwesi Muhammad for issuance of a determination. This determination will address all three iterations of the challenged rule as shown in Exhibit A.

² See Cal. Code Regs., tit. 1, § 280.

³ On October 6, 2023, OAL published in the California Regulatory Notice Register a summary of the petition challenging the Inmate Docket Info Memo and the certification from CDCR that it would not continue to use or enforce the memo. See California Regulatory Notice Register 2023, Vol. No. 40-Z (October 6, 2023).

On April 24, 2026, OAL published a summary of the petition in the California Regulatory Notice Register and solicited comments from the public until May 26, 2026. OAL did not receive any public comments on this petition.

A response to the petition from CDCR was due no later than June 8, 2026. OAL did not receive a response from CDCR.

EXISTING STATUTES AND REGULATIONS RELATING TO THE CHALLENGED RULE

The following statutory and regulatory provisions relate to the challenged rule.

1. CDCR is charged with the supervision, management, and control of the state prisons, and responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.⁴
2. CDCR may prescribe and amend rules and regulations for the administration of state prisons. Except as otherwise specified in Penal Code sections 5058 to 5058.3, inclusive, the rules and regulations shall be promulgated and filed pursuant to the APA.⁵
3. CDCR generally uses the term “incarcerated person” to refer a person who is within CDCR custody and not paroled.⁶ Historically, the term “inmate” has been used for the same purpose and continues to appear in some materials.⁷
4. All incarcerated persons, regardless of their classification or housing status, shall be entitled to physical law library access that is sufficient to provide meaningful access to the courts.⁸ Physical law library access means physical entry into a facility law library for the purpose of using its legal resources. A facility law library includes, but is not limited to, a print law library or the Law Library Electronic Delivery System (LLEDs) with any necessary print supplements.⁹

⁴ Pen. Code, § 5054.

⁵ Pen. Code, § 5058, subd. (a)(1).

⁶ Cal. Code Regs., tit. 15, § 3000.

⁷ See, e.g., change without regulatory effect amending Cal. Code Regs., tit. 15, § 3000, filed July 1, 2024, pursuant to OAL Matter Number 2024-0521-02N.

⁸ Cal. Code Regs., tit. 15, § 3123, subd. (b).

⁹ Cal. Code Regs., tit. 15, § 3123, subd. (a).

5. Each CDCR facility shall provide legal materials through its law library to provide incarcerated persons with meaningful access to the courts.¹⁰ Incarcerated persons who have established court deadlines may apply for Priority Legal User (PLU) status to the prison law libraries. Incarcerated persons who are granted PLU status based on their application shall receive higher priority to prison law library resources than other incarcerated persons.¹¹
6. Legal duplication services may be provided to incarcerated persons for the purposes of initiating or maintaining a court action. The printed forms required by state and federal courts shall be made available to incarcerated persons. An incarcerated person shall be required to pay for the duplication of printed forms and other written or typed materials, and for any special paper and envelopes required for mailing to the courts so long as the incarcerated person has more than \$25.00 in their trust account or the incarcerated person has attorney representation for the court action.¹²
7. A legal document to be duplicated for any incarcerated person, including all exhibits and attachments, shall be limited to the maximum number of pages needed for the filing, not to exceed 50 pages in total length, except when necessary to advance litigation. The incarcerated person shall provide to designated CDCR staff a written explanation of the need for excess document length.¹³
8. Subject to this qualified 50-page limitation, an indigent incarcerated person who does not have attorney representation may receive duplication services without charge for various specified court-related documents, including "additional documents that are necessary to advance litigation." For such additional documents, the incarcerated person shall provide to designated CDCR staff a written explanation of the need for additional documents.¹⁴
9. The authority to place restrictions on duplication services for any reason as described in CCR title 15, section 3162 shall not be delegated to CDCR staff below the level of correctional captain unless the person is designated by the Warden. The reasons for any restrictions on the services provided to an incarcerated person shall be documented on a

¹⁰ Cal. Code Regs., tit. 15, § 3122, subd. (a).

¹¹ Cal. Code Regs., tit. 15, § 3122, subd. (b).

¹² Cal. Code Regs., tit. 15, § 3162, subd. (a).

¹³ Cal. Code Regs., tit. 15, § 3162, subd. (b).

¹⁴ Cal. Code Regs., tit. 15, § 3162, subd. (c).

CDC Form 128-B (Rev. 4.74), General Chrono, and placed in the incarcerated person's central file.¹⁵

10. CDCR employees must not assist an incarcerated or supervised person in the preparation of any legal document, or give any form of legal advice or service, except as specifically authorized by the warden, superintendent or regional parole administrator. CDCR employees should help incarcerated and supervised persons to find qualified assistance for their legal problems.¹⁶
11. CDCR's internal administrative structure includes Offices of Grievances that, among other things, review written complaints from incarcerated persons about CDCR actions, decisions, and policies.¹⁷ CDCR also maintains an Office of Appeals to hear appeals from decisions made by Offices of Grievances.¹⁸

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5 that is not exempt from the APA, it creates an underground regulation as defined in section 250 of title 1 of the CCR.

OAL may issue a determination as to whether an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of a "regulation" as defined in Government Code section 11342.600 and should

¹⁵ Cal. Code Regs., tit. 15, § 3162, subd. (d).

¹⁶ Cal. Code Regs., tit. 15, § 3405.

¹⁷ Cal. Code Regs., tit. 15, §§ 3480, subd. (b)(8), & 3483.

¹⁸ Cal. Code Regs., tit. 15, §§ 3480, subd. (b)(2), & 3485.

have been adopted pursuant to the APA.¹⁹ An OAL determination is entitled to due deference in any subsequent litigation of the issue.²⁰

ANALYSIS

OAL's authority to issue a determination extends only to the limited question of whether the challenged rule is a regulation subject to the APA. This analysis will determine (1) whether the challenged rule is a regulation within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

I. The Challenged Rule is a Regulation.

"Regulation" is defined in Government Code section 11342.600 as:

. . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw*, the California Supreme Court found that:

A regulation subject to the [APA] has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure.²¹

A. The Challenged Rule Applies Generally.

As stated in *Tidewater*, the first element used to identify a "regulation" is whether the rule applies generally. As *Tidewater* points out, a rule need not

¹⁹ Gov. Code, § 11340.5, subd. (b).

²⁰ *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 428.

²¹ *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571.

apply to all persons in the State of California. It is sufficient if the rule applies to a clearly defined class of persons or situations.²²

The OOG Decision describes the subject of the grievance at issue as a “policy to not provide the incarcerated population with printouts of court docket information.” On its face, this description indicates the policy applies to all incarcerated persons.

The OOA Decision denies Petitioner's request to reverse the OOG Decision and references the Inmate Docket Info Memo as part of the explanation for its reasoning. The Inmate Docket Info Memo states as follows.

Subject: INMATE DOCKET INFORMATION

This memorandum establishes the policy of the Office of Correctional Education in regards to providing docket information to inmates. As courts provide docket information to litigants, it is the policy of the California Department of Corrections and Rehabilitation (CDCR) libraries to not provide print outs of that information in the library. Inmates are directed to address requests for that information to the court where they have filed their case. Please post in CDCR libraries to ensure awareness.

By its own terms, the Inmate Docket Info Memo describes a policy that applies to “inmates” and “CDCR libraries” generally. Through its reference, the OOA Decision effectively endorses the Inmate Docket Info Memo as its own statement of CDCR policy. The OOA Decision also indicates its status as CDCR's final word on the matter, stating “this decision exhausts the administrative remedies available to the claimant within CDCR.”

For these reasons, the challenged rule articulated in the OOG Decision, the OOA Decision, and the Inmate Docket Info Memo satisfies the first *Tidewater* element.

B. The Challenged Rule Implements, Interprets, and Makes Specific the Law Enforced or Administered by CDCR.

The second element of a regulation under *Tidewater* is that the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure.

²² *Roth v. Department of Veterans Affairs* (1980) 110 Cal.App.3d 622, 630.

Both the OOG Decision and OOA Decision cite as “controlling authority” CCR title 15, section 3405. CCR title 15, section 3405 implements CDCR’s broad supervisory authority over prisons and the persons confined therein pursuant to Penal Code section 5054. CCR title 15, section 3405 states:

Employees must not assist an incarcerated or supervised person in the preparation of any legal document, or give any form of legal advice or service, except as specifically authorized by the warden, superintendent or regional parole administrator. Employees should help incarcerated and supervised persons to find qualified assistance for their legal problems.

In denying Petitioner printouts of the court docket, the OOG Decision explains:

Court docket information is intended for the purpose of verifying Priority Legal User (PLU) status for incarcerated persons (IPs) and providing court case updates. It is typical for the Courts to send communication to the IPs via mail. In reference to the Claimant’s dissatisfaction with OCE’s policy to not provide the IPs with printouts of court docket information, it should be noted that as per Title 15 3405, employees shall not provide legal services that are not authorized by the OCE Superintendent. Providing court case updates to the IPs via docket printouts is a service that is not authorized by CDCR personnel nor the OCE Superintendent, thus the librarians are not authorized to provide docket printouts to the IPs. If the Claimant needs updates on his court case, he may want to consider communicating directly with the Courts to request such updates.

CDCR’s policy, as stated in the OOG Decision and affirmed by the OOA Decision, further implements, interprets, and makes more specific, at minimum, the conditional prohibition in CCR title 15, section 3405 that CDCR staff must not “assist an incarcerated or supervised person in the preparation of any legal document, or give any form of legal advice or service, except as specifically authorized.” The OOG and OOA Decisions further interpret CCR title 15, section 3405 by specifying that providing incarcerated persons with “docket printouts” is a type of legal service and that CDCR staff are not authorized to provide this legal service to incarcerated persons.

The OOA Decision also cites to CCR title 15, section 3162 as “controlling authority.” CCR title 15, section 3162 implements CDCR’s broad supervisory authority over prisons and the persons confined therein pursuant to Penal

Code section 5054. CCR title 15, section 3162 states in pertinent part as follows.

(a) Legal duplication services may be provided to incarcerated persons for the purposes of initiating or maintaining a court action. [...] An incarcerated person shall be required to pay for the duplication of printed forms and other written or typed materials, and for any special paper and envelopes required for mailing to the courts so long as the incarcerated person has more than \$25.00 in their trust account or the incarcerated person has attorney representation for the court action. [...]

(b) A legal document to be duplicated for any incarcerated person, including all exhibits and attachments, shall be limited to the maximum number of pages needed for the filing, not to exceed 50 pages in total length, except when necessary to advance litigation. The incarcerated person shall provide to designated staff a written explanation of the need for excess document length.

(c) Subject to the length requirements of subsection 3162(b), an indigent incarcerated person who does not have attorney representation may receive duplication services without charge for the following legal documents to a court:

[...]

(10) Additional documents that are necessary to advance litigation. The incarcerated person shall provide to designated staff a written explanation of the need for additional documents.

(d) The authority to place restrictions on duplication services for any reason as described in this section shall not be delegated to staff below the level of correctional captain unless the person is designated by the Warden. The reasons for any restrictions on the services provided an incarcerated person shall be documented on a CDC Form 128-B (Rev. 4.74), General Chrono, and placed in the incarcerated person's central file.

The OOA Decision states as follows.

Review of the Inmate Docket Information Memorandum dated March 28, 2022, states in part that "courts provide docket information to litigants" and as such the departmental libraries do not provide print outs of that information in the library. The

memorandum clearly outlines that appellant may request docket information to the court where appellant filed their cases. As such, this claim is denied.

CDCR's policy, as stated in the Inmate Docket Info Memo and restated in the OOA Decision, further implements, interprets, and makes more specific, at minimum, the scope of what is a "legal document" or "other written or typed materials" as well as what "legal duplication services may be provided to incarcerated persons for the purposes of initiating or maintaining a court action" pursuant to CCR title 15, section 3162.

Additionally, although not cited in the OOA Decision, the OOG Decision, or the Inmate Docket Info Memo, CDCR's policy as stated further implements, interprets, and makes more specific CCR title 15, section 3122, subsection (a). CCR title 15, section 3122 implements CDCR's broad supervisory authority over prisons and the persons confined therein pursuant to Penal Code section 5054. CCR title 15, section 3122, subsection (a), states as follows.

Each facility shall provide legal materials through its law library to provide incarcerated persons with meaningful access to the courts.

CDCR's policy further interprets that printouts of court docket information are not "legal materials" necessary "to provide incarcerated persons with meaningful access to the courts."

For these reasons, the challenged rule articulated in the OOA Decision, the OOG Decision, and the Inmate Docket Info Memo satisfies the second *Tidewater* element.

C. CDCR's Description of the Challenged Rule as a "Policy" Does Not Change the APA Analysis.

CDCR characterizes the challenged rule as a "policy," as reflected in the OOG Decision and the Inmate Docket Info Memo. This stylistic convention is immaterial to the determination of whether the challenged rule satisfies the requirements to be considered a regulation. "If it looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated as a regulation whether or not the agency in question so labeled it."²³ This includes rules that

²³ *State Water Resources Control Board v. Office of Administrative Law* (1993) 12 Cal.App.4th 697, 702.

function to interpret other regulations which the agency did adopt pursuant to the APA.²⁴

II. The Challenged Rule is Not Exempt from the APA.

The final issue to examine is whether an express statutory exemption applies to the challenged rule. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. In any event, the rulemaking requirements of the APA apply “to the exercise of any quasi-legislative power conferred by any statute heretofore or hereafter enacted” and “shall not be superseded or modified by any subsequent legislation except to the extent that the legislation shall do so expressly.”²⁵

CDCR has not identified any express statutory exemption from the APA that would apply to the challenged rule, nor did OAL find any such exemption.

CONCLUSION

In accordance with the above analysis, OAL determines that the challenged rule is a rule meeting the definition of “regulation” that CDCR should have adopted pursuant to the APA. Therefore, the challenged rule is an underground regulation.

Date: August 24, 2026

Timothy D. Findley

Timothy D. Findley
Senior Attorney

For: Kenneth J. Pogue
Director

Copy: Jeffrey Macomber, Secretary
Renee Rodriguez, Correctional Counsellor II
Tamara M. Floyd, Supervisor I

²⁴ See *Alvarado v. Dart Container Corp. of California* (2018) 4 Cal.5th 542, 555; *Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 204.

²⁵ Gov. Code, § 11346.

Exhibit A



OFFICE OF APPEALS DECISION

Offender Name: MUHAMMAD, KWESI KHARY

Date: 01/28/2026

CDC#: P84376

Current Location: CTF-Facility C

Current Area/Bed: C FW 1 - 135001L

Log #: 807624

Claim # 001

Received at Institution/Parole Region: Correctional Training Facility

Submitted to Facility/Parole District: Correctional Training Facility

Housing Area/Parole Unit:

Group: Offender Services

Category: Law Library

Sub-Category: Lack of Access

I. ISSUE ON APPEAL

Appellant alleges that the Law Library hindered appellant's meaningful access to court by no longer providing print outs of docket information to litigants.

II. RULES AND REFERENCES

A. CONTROLLING AUTHORITY

Title 15, sections 3162 and 3405

B. DOCUMENTS CONSIDERED

Grievance and Appeal Log No. 807624; Inmate Docket Information Memorandum dated March 28, 2022

III. REASONING AND DECISION

Review of the Inmate Docket Information Memorandum dated March 28, 2022, states in part that "courts provide docket information to litigants" and as such the departmental libraries do not provide print outs of that information in the library. The memorandum clearly outlines that appellant may request docket information to the court where appellant filed their cases. As such, this claim is denied.

IV. REMEDY

Your claim has been denied. Therefore, there is no applicable remedy.

Decision: Denied

After a thorough review of all documents and evidence available at the time of this written decision, it is the order of the Office of Appeals that this claim is denied. This decision exhausts the administrative remedies available to the claimant within CDCR.

Staff Signature	Title	Date/Time
A. Delgado [DEAL047]	Reviewing Authority	01/27/2026



OFFICE OF GRIEVANCES DECISION

Offender Name: MUHAMMAD, KWESI KHARY

Date: 11/04/2025

CDC#: P84376

Current Location: CTF-Facility C

Current Area/Bed: C FW 1 - 135001L

Log #: 807624

Claim #: 001

Received at Institution/Parole Region: Correctional Training Facility

Submitted to Facility/Parole District: Correctional Training Facility

Housing Area/Parole Unit:

Group: Offender Services

Category: Law Library

Sub-Category: Lack of Access

I. CLAIM

Claimant Muhammad (CDCR#P84376) submitted grievance #807624 stating that he is dissatisfied with the Office of Correctional Education's (OCE) policy to not provide the incarcerated population with printouts of court docket information.

II. RULES AND REFERENCES

A. CONTROLLING AUTHORITY

California Code of Regulations, (CCR) CDCR Title 15, 3405

B. DOCUMENTS CONSIDERED

Grievance #807624

April 2025, Memorandum

III. REASONING AND DECISION

A review of the Claimant's dissatisfaction with the Office of Correctional Education's (OCE) policy to not provide the incarcerated population with printouts of court docket information has been completed. Additionally, the Claimant was interviewed and given an opportunity to add any further information to support his claim, the Claimant had nothing further to add.

The OCE Principal over Library Services was interviewed, and the following information was provided: Court docket information is intended for the purpose of verifying Priority Legal User (PLU) status for incarcerated persons (IPs) and providing court case updates. It is typical for the Courts to send communication to the IPs via mail. In reference to the Claimant's dissatisfaction with OCE's policy to not provide the IPs with printouts of court docket information, it should be noted that as per Title 15 3405, employees shall not provide legal services that are not authorized by the OCE Superintendent. Providing court case updates to the IPs via docket printouts is a service that is not authorized by CDCR personnel nor the OCE Superintendent, thus the librarians are not authorized to provide docket printouts to the IPs. If the Claimant needs updates on his court case, he may want to consider communicating directly with the Courts to request such updates.

After careful review of the grievance claim and the CCR Title 15 regulations, it has been determined that there is no evidence to support that policy has been violated, therefore this grievance claim is denied.

IV. Comments

Decision: Denied

After a thorough review of all the documents and evidence presented to the Office of Grievances, it is the order of the Office of Grievances to DENY the claim.

If you are dissatisfied with the decision of this claim, you may appeal this decision by mailing a CDCR Form 602-2 to the Office of Appeals.

Staff Signature	Title	Date/Time
N. Gonzalez [GONI001]	Reviewing Authority	11/03/2025

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : 3/28/2022

To :
Principals
Assistant Principals
Library Staff

Subject: **INMATE DOCKET INFORMATION**

This memorandum establishes the policy of the Office of Correctional Education in regards to providing docket information to inmates. As courts provide docket information to litigants, it is the policy of the California Department of Corrections and Rehabilitation (CDCR) libraries to not provide print outs of that information in the library. Inmates are directed to address requests for that information to the court where they have filed their case. Please post in CDCR libraries to ensure awareness.

DocuSigned by:

Brandy Buenafe

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BRANDY BUENAFE

Library Services

Office of Correctional Education

Division of Rehabilitative Programs

cc: Shannon Swain
Hillary Iserman
Associate Superintendents