

TOPIC 1: RIGHTS OF PEOPLE WITH DISABILITIES

I. POLICIES AND PROCEDURES

- A. It shall be the policy of the County to provide equal access to the Jail’s services, programs, and activities to incarcerated people with disabilities. No person with a disability, as defined in 42 U.S.C. § 12102 and under California law, shall, because of that disability, be excluded from participation in or denied the benefits of services, programs, or activities or be subjected to discrimination. It shall be the policy of the County to provide reasonable accommodations or modifications where necessary to provide equal access to services, programs, or activities, consistent with the Americans with Disabilities Act (“ADA”), 28 C.F.R. § 35.130, and other applicable federal and state disability laws.
- B. The County shall, within six (6) months of finalizing this Remedial Plan and in consultation with Counsel and the joint expert, complete revision of its policies, procedures, and practices to ensure compliance with the ADA, its implementing regulations, related federal and state disability laws, and to ensure compliance with the remedial provisions outlined herein. Implementation of revised policies, procedures, and practices will proceed expeditiously and consistent with the parties’ agreement. The six-month implementation deadline will not apply to the County’s development of a disability tracking system, addressed in Paragraph II.A.

II. ADA TRACKING PROCEDURES

- A. The County shall implement a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (the “ADA Tracking System”). The County will make best efforts to implement the ADA Tracking System by January 1, 2023, and will provide notice of any delay to this timeline to allow the parties to confer and address the matter. Until the new ADA Tracking System is in place, the County shall continue to use its existing system for tracking incarcerated person’s disabilities and their specific accommodation needs (“Existing ADA Tracking System”).
- B. The ADA Tracking System shall identify:
 - 1. All types of disabilities, including but not limited to mental health, Intellectual/Developmental Disability, learning, speech, hearing, vision, mobility, dexterity, upper extremity, or other physical or sensory disabilities;
 - 2. Disability-related health care needs;

3. Barriers to communication, including but not limited to Intellectual/Developmental Disability, learning, and hearing, speech, or vision disabilities;
 4. Accommodation needs, including but not limited to accommodations related to housing, programming, classification, Effective Communication, adaptive supports, and health care appliances, assistive devices, and/or durable medical equipment (“HCA/AD/DME”);
- C. The ADA Tracking System’s information shall be readily accessible to and used by all custody, medical, mental health, program, and other staff who need such information to ensure appropriate accommodations, adaptive supports and meaningful access for persons with disabilities.
- D. The ADA Tracking System shall not be called the “Special Needs List.”

III. IDENTIFYING PEOPLE WITH DISABILITIES

- A. The County shall, throughout a person’s time in custody, take steps to identify and verify each person’s disability and disability-related needs.
- B. During the medical intake screening conducted for every person booked into the Jail, CHS staff shall take steps to identify and verify each person’s disability and disability-related needs, including based on:
1. The individual’s self-identification or claim to have a disability;
 2. Documentation of a disability in the individual’s Jail health record and/or County (OCHCA) records;
 3. Staff observation/referral to ADA Unit regarding a person who may have a disability; or
 4. The request of a third party (such as a family member) for an evaluation of the individual for an alleged disability.
- C. When conducting the medical intake screening, staff shall determine if the individual has a disability affecting communication and, if yes, provide and document the provision of Effective Communication during the medical intake screening.
- D. CHS staff shall conduct medical intake screenings, including for disabilities, in settings that allow for reasonable privacy and confidentiality.
- E. When conducting screening and intake, CHS shall utilize evidence-based and Trauma-Informed practices that take into account that many incarcerated people have experienced trauma.
- F. If the medical intake screening identifies that the person in custody requires any accommodations (*e.g.*, housing, HCA/AD/DME), such

accommodations shall be provided promptly to the incarcerated person. The need for such accommodations shall also be communicated to all relevant staff and documented in the ADA Tracking System/Existing ADA Tracking System.

- G. Medical staff shall immediately notify custody staff and the ADA Compliance Unit regarding a person's disabilities and disability-related needs.
- H. All disabilities and disability-related accommodation needs identified during the intake process shall be tracked in the ADA Tracking System/Existing ADA Tracking System.
- I. CHS shall develop a process for conducting disability-related evaluations for persons in custody after the medical intake screening. Such evaluations can occur at the request of the person in custody, staff who observe a potential need for accommodation, or third parties. Like the medical intake screening, such evaluation shall be conducted by a qualified health care professional to determine whether a person has a disability and, if yes, any reasonable accommodations necessary for the person to have equal access to programs, services, and activities offered at the Jail.

IV. ORIENTATION

- A. The County shall ensure that persons with disabilities are adequately informed of their rights under the ADA, including but not limited to:
 - 1. The right to reasonable accommodations;
 - 2. The process for requesting a reasonable accommodation;
 - 3. The grievance process, location of the forms, and process for getting assistance in completing grievance process;
 - 4. The role of the OCSD and CHS ADA Coordinators and methods to contact them;
 - 5. Instructions on how persons with disabilities can access health care services, including the provision of Effective Communication and other accommodations available in accessing those services; and
 - 6. The availability of and process for requesting access to auxiliary aids, including sign language interpreters, and other accommodations for people with disabilities affecting communication.
- B. Upon booking, persons with disabilities shall receive, in an accessible format (including in Spanish language), an orientation video regarding rules or expectations. Once they are housed, persons with disabilities shall receive, in an accessible format (including in Spanish language): the Jail

rules, the ADA information brochure and the ADA inmate qualifications/ acknowledgement of rights/programs form as part of the initial ADA interview process conducted by the ADA Compliance deputies.

- C. The County shall ensure that all information from the orientation process is communicated effectively to people with communication-related disabilities. The County shall ensure that any orientation videos are available with closed captioning, and in Spanish language.
- D. The County shall post an ADA Rights Notice that provides information about incarcerated persons' rights under the ADA, reasonable accommodations, and contact information for the ADA Coordinator. The Notice shall be prominently posted in all housing units, in the booking/intake areas, in medical/mental health/dental treatment areas, and at the public entrances of all Jail facilities.
- E. The County shall ensure that staff orient and provide individualized support for persons who are blind, low vision, deaf, hard of hearing, or who have developmental or intellectual disabilities when the County initially places such people in housing or transfers such people to a new housing unit. The orientation must be effectively communicated to ensure that the person with a disability can safely navigate the housing unit and understands how to request assistance, including from staff working in the housing unit. The nature and extent of the orientation will depend on individual need.

V. EFFECTIVE COMMUNICATION

- A. For people with disabilities affecting communication, the County shall assess each person's Effective Communication needs, and shall provide Effective Communication based on individual need.
- B. The County shall assess all people detained at the Jail for any period of time to determine if they have a disability that affects communication. A disability affects communication if it affects hearing, seeing, speaking, reading, writing, or understanding. Persons who have disabilities affecting communication include, but are not limited to, people who are blind or have low vision, who are deaf or hard of hearing, who have a speech, learning, Intellectual/Developmental Disability, who have traumatic brain injury, or who have a mental illness.
- C. In determining what accommodations are necessary to achieve Effective Communication, including what auxiliary aids and services may be necessary, the County shall give primary consideration to the preference of the person with Effective Communication needs.
- D. Effective auxiliary aids and services shall be provided when simple written or oral communication is not effective. Such aids may include, but are not

limited to, bilingual aides, qualified sign language interpreters, certified deaf interpreters, oral interpreters, readers, sound amplification devices, captioned television/video text displays, speech-to-text and real-time captioning, videophones and other telecommunication devices for deaf persons (TDDs), video relay services, video remote interpreting services, audiotaped texts, Braille materials, large print materials, screen readers, writing materials, written notes, and signage.

- E. The County shall ensure that staff provide Effective Communication such that persons with communication-related disabilities can participate as equally as possible in Jail programs, services, and activities for which they are qualified.
- F. The requirements in subsection (G) shall apply for Effective Communication in the following situations:
 - 1. Due Process Events
 - a. Classification processes;
 - b. Jail disciplinary hearing and related processes;
 - c. Service of notice (to appear and/or for new charges);
 - d. Release processes;
 - 2. Clinical Encounters
 - a. Obtaining medical history or description of ailment or injury;
 - b. Communicating diagnosis or prognosis;
 - c. Providing medical care (note: medical care does not include medication distribution);
 - d. Performing medical evaluations;
 - e. Providing mental health care;
 - f. Performing mental health evaluation;
 - g. Providing group and individual therapy, counseling and other therapeutic activities;
 - h. Providing patient's rights advocacy/assistance;

- i. Obtaining informed consent or refusal for provision of treatment;
 - j. Explaining information about: medications, medical or mental health procedures, treatment, or treatment options;
 - k. Explaining discharge instructions;
 - l. Providing clinical assistance during a medical/mental health round (note: this requirement does not apply to performing routine medical/mental health safety checks).
- G. In the situations described in subsection (F), above, Jail staff shall:
1. Prior to the encounter, access the ADA Tracking System or Electronic Health Record system (as applicable) and identify if the person requires reasonable accommodation(s) for Effective Communication;
 2. Provide reasonable accommodation(s) to achieve Effective Communication; and
 3. Document the method used to achieve Effective Communication and how the staff person determined that the person understood the encounter, process, and/or proceeding.
- H. Lip reading generally should not be used by staff as a means of Effective Communication. If an incarcerated person's preferred/primary method of communication is lip reading, then staff shall accommodate by speaking slowly and loudly.
- I. The County shall establish a process for logging all instances where sign language interpreters are provided to persons in custody. The County shall also log all instances where a sign language interpreter was needed but was not provided.

VI. INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

- A. OCSD and CHS shall develop and implement comprehensive and coordinated written policies and procedures on serving incarcerated people with Intellectual/Developmental Disabilities.
- B. CHS will develop and adopt a comprehensive screening process for trained clinical staff to identify Intellectual/Developmental Disabilities, including cognitive deficits, adaptive functioning deficits, and adaptive support needs.

Exhibit B: Remedial Plan (DRC, County of Orange)

1. If a person is known to have or suspected of having an Intellectual/Developmental Disability, the County shall provide a secondary screening performed by a licensed clinical psychologist within seven (7) business days.
 2. CHS will timely contact the appropriate Regional Center and request the person's current Individualized Program Plan (IPP), with the person's authorization. Once received, health care and custody staff will review the IPP to ensure that appropriate supports and services are provided.
 3. Whenever possible, Jail staff will work with the Regional Center and any relevant County agencies to move a person with an identified Intellectual or Developmental Disability out of custody and into a setting with appropriate supports to meet the person's individual needs.
 4. CHS and OCSD will timely provide relevant information and input about a person's Intellectual/Developmental Disabilities and related needs to OCSD Classification and ADA Compliance Unit staff, for appropriate consideration as to housing, work assignments, disciplinary measures, and other relevant matters.
- C. A multidisciplinary team that includes appropriate health care staff shall monitor and ensure appropriate care and support for people with an Intellectual/Developmental Disability. For each patient, the multidisciplinary team will develop an individualized plan that addresses: (1) safety, vulnerability, and victimization concerns, (2) adaptive support needs, and (3) programming, housing, and accommodation needs. The multidisciplinary team's plan will be reviewed quarterly. If a member of the team becomes aware that a person with an Intellectual/Developmental Disability has a change in (1), (2) or (3) above, the team will promptly review and, if necessary, update the person's plan.
- D. Relevant staff, including housing deputies, the ADA Compliance Unit, and work supervisors/teachers, shall be trained and informed, as appropriate, as to: (a) incarcerated people with Intellectual/Developmental Disabilities, their individualized plan, and related accommodation and adaptive support needs; and (b) staff responsibilities to provide for such needs as well as to monitor for and address any safety, vulnerability, or victimization concerns.
- E. People identified as having an Intellectual/Developmental Disability shall be provided with accommodations and adaptive supports tailored to their needs, including (but not limited to) communications at the appropriate comprehension level, more time to complete directions, and specific behavioral and activities of daily living (ADL) supports.

1. Jail staff will be assigned, as appropriate, to assist with health appointments, classification or disciplinary proceedings, housing/facility transfers, and other events involving potentially complex communications.
 2. The ADA Compliance Unit shall track provision of supports for people with Intellectual/Developmental Disabilities on the ADA Inmate Activity Log.
- F. Incarcerated people with Intellectual/Developmental Disabilities, as well as learning disabilities, will have access to easy reading books, magazines, and electronic tablet programs consistent with their reading and cognitive abilities, such that they have equal access to such materials as compared with other incarcerated people at the Jail.
- G. CHS and OCS D staff will provide discharge planning tailored to the needs of people with Intellectual/Developmental Disabilities, including appropriate and effective linkages to housing assistance and community-based service providers.

VII. HEALTH CARE APPLIANCES, ASSISTIVE DEVICES, DURABLE MEDICAL EQUIPMENT

- A. The County shall immediately provide HCA/AD/DME to persons for whom HCA/AD/DME are a reasonable accommodation. The County shall ensure an individualized assessment by qualified health care staff to determine whether HCA/AD/DME is warranted and to ensure equal and meaningful access to programs, services, and activities in the Jail.
- B. The County shall track and document the inspection and maintenance of HCA/AD/DME. Such documentation shall include the following information for each device: whether the person has all assigned HCA/AD/DME; whether the person believes the assigned HCA/AD/DME is appropriate; whether the HCA/AD/DME is in good working order; and, if the HCA/AD/DME requires repair or replacement or is inappropriate for the person, a description of the actions taken (*e.g.*, to repair/replace HCA/AD/DME, evaluation for different HCA/AD/DME, *etc.*).
- C. The County shall ensure that all County-provided wheelchairs are in working order and have features consistent with individual needs.
- D. The County shall not charge people in custody for the provision, repair, or replacement of HCA/AD/DME.
- E. **Personal HCA/AD/DME.** The County shall allow people to retain personal HCA/AD/DME (including reading glasses, as allowed by current policy), unless there is an individualized determination that doing so would create an articulated safety or security risk.

Exhibit B: Remedial Plan (DRC, County of Orange)

1. Where Jail staff determine it is necessary to remove an individual's personal HCA/AD/DME for safety and security reasons, the County shall immediately provide an equivalent alternative Jail-issued device unless custody staff, with supervisory review, determine and document, based on an individualized assessment, that the device constitutes a risk of bodily harm or threatens the security of the facility.
 2. If such a determination is made, an ADA Coordinator or supervisory level designee shall document the decision and reasons for it, and shall consult with medical staff within 48 hours to determine an appropriate alternative device and/or accommodation.
 3. If an individual's personal HCA/AD/DME is in need of repair, the County shall either repair the HCA/AD/DME at the County's expense or provide the person with a replacement HCA/AD/DME at the County's expense while the person is incarcerated.
 4. Any HCA/AD/DME provided by the County to replace an individual's personal HCA/AD/DME shall be sufficient to provide the person with safe access to the Jail's programs, services, and activities.
 5. If the County repairs a personal HCA/AD/DME, the County shall provide the person with an interim HCA/AD/DME while the personal HCA/AD/DME is being repaired.
- F. **Prosthetics.** The County shall permit any person who has a prosthetic limb or similar device and needs such prosthesis full use of such prosthesis while in custody absent specifically identified security concerns.
1. If a prosthetic limb or device is removed, a health care provider will examine the person as soon as possible, and not later than the next sick call after the removal, in order to address any negative impact on the health or safety of the person and to provide an alternative device and/or accommodation.
 2. If a person requires repair or maintenance of a prosthetic limb or similar device, the County shall take prompt steps to resolve the issue, including providing interim accommodations as indicated.
 3. If CHS determines a person requires a prosthetic limb or similar device but does not have one, the County will take prompt steps to provide appropriate assessment and timely provision of prostheses or similar device. The County will provide an alternative assistive device, based on clinical assessment and meaningful consideration of the individual's stated preference, as an interim accommodation to facilitate equal access to services.

- G. The County shall not automatically remove HCA/AD/DME when incarcerated people are placed in temporary holding, sobering, or observation cells, and shall remove HCA/AD/DME only based on individualized security factors and only for the minimum time necessary.
- H. **HCA/AD/DME Upon Release.** The County shall take steps necessary to address a person's disability needs upon release. In no event will a person in need of HCA/AD/DME be released without access to HCA/AD/DME that is in good working order and appropriate for the person's needs.
 - 1. The County will ensure that any personally owned HCA/AD/DME that has been removed is returned to the incarcerated person prior to release from custody.
 - 2. Upon release, if an incarcerated person does not have personal HCA/AD/DME or came to the Jail with HCA/AD/DME that is not adequate for the person's needs, the County will permit the person to retain any HCA/AD/DME that the County provided to the person while in custody, or the County will provide a comparable device. Jail staff may alternatively coordinate with the incarcerated person, the person's family or friends, and/or other County agencies to secure HCA/AD/DME for the person prior to release.
 - 3. The County shall document this process in a manner that (a) can be reviewed for quality assurance and (b) ensures individual tracking and an adequate inventory of HCA/AD/DME.

VIII. HOUSING PLACEMENTS

- A. The County shall house persons with disabilities in the most integrated setting appropriate, consistent with their individual security classification, in facilities that accommodate their disabilities and in which they have equivalent access to programs, services, and activities.
- B. The County shall provide persons with disabilities at all classification levels with access to out-of-cell time, programs, services, activities that is equivalent to the access provided to persons without disabilities with comparable security and classification profiles.
- C. The County shall maintain a housing assignment system that utilizes information in the ADA Tracking System/Existing ADA Tracking System for each person's disability needs, including, but not limited to:
 - 1. The need for ground floor housing;
 - 2. The need for a lower bunk;
 - 3. The need for grab bars in the cell;
 - 4. The need for a cell with sufficient clearance for a wheelchair;

Exhibit B: Remedial Plan (DRC, County of Orange)

5. The need for accessible toilets;
 6. The need for accessible showers;
 7. The need for no stairs or other obstructions in the path of travel;
 8. The need for level terrain; and
 9. The need for mental-health related accommodations.
- D. Classification staff shall not place persons with disabilities in:
1. Inappropriate security classifications simply because no ADA-accessible cells or beds are available;
 2. Designated medical areas unless the person is currently receiving medical care or treatment that necessitates placement in a medical setting; or
 3. Any location that does not offer the same or equivalent programs, services, or activities as the facilities where they would be housed absent a disability.
- E. Sheltered Living cells
1. The County agrees that the Sheltered Living cells behind the O Module at Central Men's Jail create operational difficulties, including with respect to the provision of adequate out-of-cell time, program access, and socialization for incarcerated persons with disabilities. OCSD will deactivate and no longer use these Sheltered Living cells for incarcerated persons with disabilities at the earliest date feasible given COVID-related housing demands (e.g., quarantine housing) and alternative accessible housing. OCSD will begin to re-house individuals with disabilities from Sheltered Living as soon as other accessible housing units are available.
 2. Until the Central Men's Jail Sheltered Living cells are deactivated, the County shall house a person with a disability in the Sheltered Living cells only if there is no other placement that is consistent with the person's classification/housing needs and meets the person's accessibility needs.
- F. The County shall assist incarcerated persons with disabilities (including in wheelchairs) to access the Central Men's Jail yard from the elevators and to navigate the ramp leading to the yard. Staff shall ensure incarcerated persons with mobility disabilities are provided access to an accessible restroom when on the Central Men's Jail yard.

- G. The County shall conduct periodic quality assurance audits to ensure that all people in custody who require accommodations in housing are placed in housing consistent with their needs.
- H. The County shall develop a process to expeditiously move people in custody with disability-related needs who are inappropriately housed in an inaccessible placement to an accessible placement.

IX. ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

- A. The County shall ensure that all persons with disabilities, including those in ADA-accessible or other specialized housing, are informed of and have equal access to programs, services, and activities available to similarly situated persons without disabilities, consistent with their health and security needs. Such programs, services, and activities include, but are not limited to:
 - 1. Dayroom and out-of-cell time;
 - 2. Outdoor recreation and exercise equipment;
 - 3. Showers;
 - 4. Telephones;
 - 5. Reading materials;
 - 6. Reading and scribing documents;
 - 7. Religious services;
 - 8. Educational, vocational, reentry and substance abuse programs;
 - 9. Work Assignments, including the Community Work Program;
 - 10. Medical, mental health, and dental services and treatment;
 - 11. Public visiting; and
 - 12. Attorney visiting.
- B. The County shall provide appropriate assistance to persons with disabilities so that they can meaningfully participate in Jail programs, services, and activities for which they are qualified and medically cleared.
- C. The County shall assist persons with disabilities in reading or scribing documents (legal, medical, request forms, grievances, due process, *etc.*).
- D. The County shall provide equal access to library, recreational, and educational reading materials for persons with disabilities, including providing easy reading, large-print, and Braille books; a Braille writer audiobooks; accessible electronic tablet programming; and assistive technology, as necessary.

- E. The County shall log and track out-of-cell time and program participation to ensure that people with disabilities receive meaningful and equitable access to such programs and activities. At minimum, the system shall collect information as to:
1. When the County offers out-of-cell opportunities (dayroom and outdoor); whether the incarcerated person with a disability accepts or refuses the opportunity; and, if an incarcerated person accepts the opportunity, the amount of time spent out of cell;
 2. The ADA Compliance Unit shall interview incarcerated persons with disabilities on a monthly basis. If during the interview, the ADA Compliance Unit discovers that a person with a disability has refused offers for outdoor recreation three times in a row, or has refused offers for dayroom three times in a row, the ADA Compliance Unit shall inquire and document the reason(s) for the refusal. The ADA Compliance Unit shall inquire whether a disability accommodation, mental health referral or other action is needed to afford meaningful access, and shall document the action taken in the incarcerated person's ADA Inmate Activity Log. During the monthly meeting, the ADA Compliance Unit will also provide the incarcerated person with a message slip to contact the ADA Compliance Unit regarding any disability issues. If at any time prior to the monthly interview, any member of the ADA Compliance Unit becomes aware that an incarcerated person with a disability may need a disability accommodation, mental health referral or other action to afford meaningful access to out-of-cell opportunities, the ADA Compliance Unit will meet promptly with the incarcerated person and document the action taken in the incarcerated person's ADA Inmate Activity Log.
 3. The County shall conduct an annual review to determine whether the County offers structured programs and activities, including, but not limited to, religious, educational, vocational, reentry, and substance abuse programs, on an equal basis to people with disabilities and whether there are access/accommodation barriers to be addressed.

X. ACCESS TO WORKER OPPORTUNITIES

- A. The County shall ensure equitable work opportunities for incarcerated persons with disabilities. Incarcerated people with disabilities who can perform the essential functions of a position, with or without accommodations, shall be considered for and placed into work opportunities in the same manner as incarcerated people who do not have disabilities and who are similarly situated with respect to other factors

unrelated to disability (*e.g.*, classification level, individualized security considerations). To ensure equitable work opportunities for incarcerated people with disabilities, the County shall:

1. Ensure clear job descriptions that include the essential functions and clear hiring criteria that do not inappropriately screen out people with disabilities;
 2. Ensure that medical staff conduct an individualized assessment to identify work duty restrictions and/or physical limitations, in order to ensure appropriate work assignments and reasonable accommodations on the job;
 3. Ensure that staff supervising incarcerated workers consider, with input from the incarcerated person, reasonable accommodations that would make it possible for the incarcerated person to perform the essential job functions and/or consider whether the incarcerated person could, with or without reasonable accommodations, perform the essential job functions of another position.
 4. Ensure equitable work opportunities for incarcerated persons with intellectual disabilities, with appropriate accommodations and supports (*e.g.*, additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.).
- B. Nothing in this section shall prohibit the County from excluding a person from a work opportunity who would be disqualified based on factors unrelated to the person's disability, including classification level and individualized security considerations that cannot be addressed through reasonable disability-related accommodations.

XI. ACCESS TO COMMUNITY WORK PROGRAM

- A. The County shall ensure equal access to the Community Work Program (CWP) for people with disabilities. People with disabilities who can perform the essential functions of a CWP position, with or without accommodations, shall be considered for and placed into CWP opportunities in the same manner as people who do not have disabilities and who are similarly situated with respect to other factors unrelated to disability (*e.g.*, classification level, individualized security considerations). To ensure equitable CWP opportunities for people with disabilities, the County shall:
1. Ensure clear job descriptions that include the essential functions and clear hiring criteria that do not inappropriately screen out people with disabilities;

2. Ensure that medical staff conduct an individualized assessment to identify work duty restrictions and/or physical limitations, in order to ensure appropriate CWP assignments and reasonable accommodations on the job;
 3. Ensure that staff supervising CWP workers consider, with input from the incarcerated person, reasonable accommodations that would make it possible for the person to perform the essential job functions and/or consider whether the person could, with or without reasonable accommodations, perform the essential job functions of another CWP position.
 4. Ensure equitable CWP opportunities for incarcerated persons with intellectual disabilities, with appropriate accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.).
- B. The County shall end its practice of medical staff not approving people with disabilities for participation in the CWP based on a person's disabilities absent meaningful consideration of essential job functions and reasonable accommodations.
- C. The County shall provide reasonable accommodations to enable incarcerated persons with disabilities to participate in work opportunities, including the CWP.
- D. Nothing in this section shall prohibit the County from excluding a person from the CWP who would be disqualified based on factors unrelated to the person's disability, including classification level and individualized security considerations that cannot be addressed through reasonable disability-related accommodations.

XII. DISABILITY-RELATED GRIEVANCE PROCESS

- A. The County shall ensure that grievance policies and procedures are readily available and accessible to all persons.
1. The County shall inform people of the disability grievance procedures, including, but not limited to, by posting notices throughout the Jail, ensuring the grievance procedures are explained in the orientation packet, and discussing the procedures with people with disabilities during the meeting with staff from the ADA Compliance Unit that occurs within seven days of a person being identified as having a disability.

Exhibit B: Remedial Plan (DRC, County of Orange)

2. The County shall ensure that the disability grievance procedures are effectively communicated to persons with disabilities affecting communication.
- B. The County shall track all grievances that request disability accommodations and/or raise any disability-based discrimination or violation of the ADA, this Remedial Plan, or Jail ADA-related policy.
- C. The County shall ensure that all persons, including people with disabilities, have meaningful access to the grievance process and to grievance forms.
1. The County shall ensure that grievance forms are readily available to people in custody, either by placing grievance forms in the housing units in areas accessible to people in custody or ensuring that staff provide grievance forms promptly upon request, irrespective of the type of grievance raised.
 2. Jail staff can and should attempt to address grievances informally but may not, under any circumstances, refuse to provide a requested grievance form, destroy a grievance form, or otherwise obstruct or interfere with a person's ability to submit a grievance form.
 3. Jail staff shall assist people in custody who require accommodations to submit a grievance or to appeal a grievance response (*e.g.*, people who are blind, have an Intellectual/Development Disability, have a learning disability, or who have physical disabilities that make it difficult or impossible for them to write, or are illiterate).
- D. Responses to Grievances
1. The Housing Sergeant who receives the grievance or appeal shall screen all ADA-related grievances and appeals within one day of receipt to determine whether the grievance presents an urgent issue regarding a person's safety or well-being. For grievances and appeals that present an urgent issue, the County shall either (a) immediately provide an interim accommodation that addresses the urgent issue pending a final response to the grievance or (b) resolve the grievance promptly with participation of health care staff, as appropriate. For grievances that raise significant and imminent health or safety risks, the County shall address the grievance immediately.
 2. The Facility Administrative Sergeant, in consultation with the ADA Compliance Unit, shall investigate all non-urgent ADA-related grievances and appeals and provide a written response within fourteen days of receipt.

3. In limited circumstances where the County is unable to resolve the grievance within fourteen days (e.g., the incarcerated person must be referred to a specialist and the appointment will not occur within fourteen days or the grievance involves a personnel complaint), the County should still provide a response within fourteen days. The response should communicate why the County cannot resolve to the grievance within the fourteen-day deadline and, if relevant, provide information regarding any subsequent events scheduled to resolve the grievance (e.g., a specialist appointment) and address, as appropriate, provision of interim accommodations pending resolution .
4. If the grievance is a request for an accommodation, the response must articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation. If the County is not providing the requested accommodation, the response must explain the reasoning for the decision. If the County is providing an accommodation (either the requested accommodation or an alternative), the County must document that it has provided the granted accommodation.
5. The County shall ensure that, in responding to an ADA-related grievance, the ADA Compliance Unit receives input from all sources, including OCS and CHS staff, as necessary to respond to the grievance. Input from CHS staff may be required in circumstances where the grievance raises a question regarding whether the grievant has a disability or whether an accommodation requested by the grievant is reasonable. CHS staff may provide input based on a records review and/or in-person evaluation conducted for purpose of responding to the grievance, as circumstances warrant.
6. When necessary, the ADA Compliance Unit shall interview people in custody regarding their requests for accommodations to gather information about or to clarify the nature of the request for accommodation.
7. All grievance responses shall include an explanation of the process for appealing the grievance response.
8. The County shall ensure that it effectively communicates all grievance and appeal responses to the grievant/appellant.
9. When a person files a grievance or appeal of a grievance response, the County shall provide a copy of the grievance or appeal to the grievant.

- E. The County shall ensure that incarcerated persons do not face any retaliation for requesting accommodations or submitting grievances.

XIII. ALARMS/EMERGENCIES/ANNOUNCEMENTS

- A. The County shall accommodate people with disabilities with respect to alarms and emergencies.
- B. Relevant policies related to accommodations for alarms and emergencies shall be communicated to persons with disabilities using Effective Communication.
- C. The County shall communicate effectively and appropriately with persons who have disabilities that may present barriers to communication during emergencies or alarms.
- D. In order to facilitate appropriate accommodations during alarms or emergencies, the County shall offer, but shall not require, people who have disabilities to wear visible markers to identify their disability needs (e.g., identification vests). The County shall also maintain a list, posted in such a way to be readily available to Jail staff in each unit, of persons with disabilities that may require accommodations during an alarm or emergency.
- E. The County shall ensure that people who are deaf or hard of hearing receive effective communication during alarms and emergency announcements. Staff will prioritize these persons during alarms, emergency announcements and any evacuation.
- F. Staff shall ensure that they effectively communicate all verbal announcements to persons with disabilities that affect communication. For example, staff may need to communicate verbal announcements in writing or electronic means (e.g., pager) to deaf incarcerated people.
- G. Staff shall ensure that they effectively communicate all written notices to persons with disabilities that affect communication. For example, staff may need to read a written notice to blind or low vision incarcerated people or provide such notices in large print.

XIV. SEARCHES, RESTRAINTS, AND COUNTS

- A. The County shall ensure that incarcerated people with disabilities, including those with prosthetic limbs, receive reasonable accommodations with respect to the following:
 - 1. All searches, including pat searches and searches without clothing;
 - 2. Application of restraint equipment; and
 - 3. During counts.

- B. Incarcerated persons with disabilities who cannot be restrained, searched, or counted using the standard methods/processes, including but not limited to persons with certain mobility or upper extremity disabilities, using HCA/AD/DME, using prosthetic limbs, and in need of Effective Communication accommodations, must be provided reasonable accommodations.

XV. TRANSPORTATION

- A. The County shall provide reasonable accommodations for persons with disabilities when they are in transit, including during transport to court, between Jail facilities, or to outside health care services.
- B. Prescribed HCA/AD/DME, including canes, for persons with disabilities shall be available to the person at all times during the transport process.
- C. The County shall use accessible vehicles to transport persons whose disabilities necessitate special transportation, including by maintaining a sufficient number of accessible vehicles. For scheduled transportation (e.g., court appearances and non-emergency outside medical appointments), the County shall schedule the accessible transportation in advance. The County shall ensure that, to the greatest extent practicable, persons who require accessible transportation are not required to wait longer for transportation than people who do not require accessible transportation. The County shall ensure that transportation staff do not ask persons who require accessible transportation to accept inaccessible transportation.
- D. Persons with mobility impairments shall, when necessary, be provided staff assistance getting on and off transport vehicles.

XVI. ADA TRAINING, ACCOUNTABILITY, AND QUALITY ASSURANCE

- A. The County shall ensure all custody, health care, and other Jail staff receive annual ADA training appropriate to their position.
 - 1. The County shall provide to all staff appropriate training on disability awareness, including the use and purpose of accommodations and modifications in accordance with the ADA and other federal and state disability law.
 - 2. The County shall provide to all staff appropriate training on Trauma-Informed Care, which will be included in the ADA training and Crisis Intervention training (CIT).
 - 3. The ADA training shall include: formalized lesson plans and in-classroom or real-time virtual training for staff (including managers, supervisors, and rank-and-file staff) provided by certified or

otherwise qualified ADA trainers. Self-directed study may be paired with real-time ADA training.

4. CHS and OCSD staff shall receive periodic training on the range of potential accommodation and adaptive support needs of people with Intellectual/Developmental Disabilities.
 - B. ADA instructors shall have appropriate ADA training and subject matter expertise necessary to effectively provide ADA training to staff.
 - C. The County shall, in consultation with Counsel and the joint expert, develop and implement written policies and procedures regarding monitoring, investigating, and tracking staff violations (or allegations of violations) of ADA requirements and Jail ADA policies.
 - D. The County shall develop an ADA accountability plan intended to timely log and investigate allegations, from any source, that staff have violated the ADA or Jail ADA-related policies and procedures. OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy. CHS staff who the Health Care Agency finds to have violated the ADA or Jail ADA-related policies and procedures shall be subject to the Health Care Agency's discipline policy.

TOPIC 2: ELIMINATION OF HARMFUL RESTRICTIVE HOUSING AND DISCIPLINARY PRACTICES

I. SYSTEMWIDE INCREASE OF MINIMUM OUT-OF-CELL TIME

- A. It is the intent of OCSD and CHS to provide as much out-of-cell time and programming to the incarcerated population as possible, consistent with security, classification, and operational needs.
- B. Absent exigent circumstances or exigent security concerns that are documented, the County shall offer each person in custody who is not housed in the Special Management Unit a minimum of twenty-four (24) hours out of their cell each week, as follows:
 - 1. At least (3) hours per day in a dayroom or other common area, for a total of at least twenty-one (21) hours per week.
 - a. OCSD will offer additional dayroom time beyond three (3) hours per day as scheduling and classification needs allow. To do so, OCSD will ensure that dayrooms in celled housing units will be available and occupied for use by incarcerated people from 0600 through 2300 hours daily, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (*e.g.*, counts, searches). Once every incarcerated person in a celled housing unit has been offered use of the dayroom and, if they choose, used the dayroom for three hours in a day, OCSD shall offer another opportunity to use the dayroom to incarcerated people who already used the dayroom or were already offered but declined the opportunity to use the dayroom. OCSD shall make efforts to rotate these opportunities for additional dayroom among the incarcerated people in a housing unit or sector so that everyone in the unit or sector can have approximately equal additional dayroom time. If everyone in the unit or sector has had an opportunity for dayroom time and everyone refuses any subsequent offer of additional dayroom time, dayroom will be closed for two hours. Incarcerated persons will then be offered dayroom on a recurring two hour cycle for the remainder of the day. If a pattern develops that an incarcerated person is refusing an offer of dayroom time in an apparent attempt to obtain a specific dayroom time, the incarcerated person will be informed that the specific dayroom time will not be offered, and will be given the opportunity to accept the offered time.

Exhibit B: Remedial Plan (DRC, County of Orange)

- b. When people are provided dayroom time, OCSD staff will ensure they have ready access to toilet facilities. This may be accomplished by staff opening their cell door promptly upon request (and allow them to return to dayroom after using the toilet/sink), or other appropriate procedure.
 - c. OCSD shall document if there are exigent circumstances, if a person is at court, or if the person is at an off-site medical appointment, so as to preclude the provision of minimum dayroom time on a given day.
 - d. Scheduled programming in the dayroom may be included in the three hours per day of dayroom time.
2. At least three (3) hours per week outdoors for exercise and/or recreation.
- a. OCSD will offer additional outdoor exercise and/or recreation time beyond three (3) hours per week as scheduling and classification needs allow. To do so, OCSD will ensure that all outdoor recreation areas are in use by incarcerated people from 0600 through 2300 hours daily, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (*e.g.*, counts, searches). For the outdoor space adjacent to the Theo Lacy Barracks (the “Green Sector”), where artificial lighting is unavailable, OCSD will ensure that the Green Sector is in use by incarcerated people during daylight hours, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (*e.g.*, counts, searches). Once every incarcerated person has been offered use of the outdoor recreation area and, if they choose, used the outdoor recreation area for three hours per week, OCSD shall offer additional opportunities to use the outdoor recreation area to incarcerated people who already used the outdoor recreation area or were already offered the opportunity to use the outdoor recreation area. OCSD shall make efforts to rotate these opportunities for additional outdoor recreation among the incarcerated people so that everyone can have approximately equal additional outdoor recreation time. If everyone in the unit or sector has had an opportunity for outdoor recreation time and everyone refuses any subsequent offer of additional outdoor recreation time, outdoor recreation will be closed for two hours. Incarcerated

persons will then be offered outdoor recreation on a recurring two hour cycle for the remainder of the day. If a pattern develops that an incarcerated person is refusing an offer of outdoor recreation time in an apparent attempt to obtain a specific outdoor recreation time, the incarcerated person will be informed that the specific outdoor recreation time will not be offered, and will be given the opportunity to accept the offered time.

- b. OCSD shall document if exigent circumstances or inclement weather affecting the safety of the outdoor recreation area preclude the provision of the minimum outdoor time in a given week.
3. OCSD will offer additional programming, including through electronic tablets, that will be available for use when people are confined to their cells, among other times. OCSD expects that the electronic tablet program will be rolled out by the first quarter of 2023, and that tablets will be provided. OCSD will take affirmative steps to ensure that electronic tablet programming is accessible to people with disabilities (*e.g.*, vision).
 - C. Consistent with safety and security needs, the County shall take steps to maximize opportunities for people in celled housing units to interact with others during out-of-cell time.
 - D. The County will make best efforts to accommodate individual needs regarding the time of day for out-of-cell time (*e.g.*, for people with disabilities impacting fatigue, on sleep medications, *etc.*).
 - E. The County will make best efforts to ensure that all people are offered some opportunities for out-of-cell time during normal daylight hours each week.
 - F. The County shall utilize an effective electronic system for documenting and tracking the amount of out-of-cell time that each person in custody is offered and receives with respect to each of the above categories.
 - G. The County shall conduct electronic audits at least weekly to ensure that OCSD is offering the required out-of-cell time consistent with the provisions set forth herein. Supervisory staff will regularly review this data for quality assurance and take steps to address any deficiencies.

- H. OCSD, in coordination with CHS, may place temporary restrictions on dayroom and outdoor recreation access, such as for issues related to infectious disease control.
- I. OCSD may place temporary restrictions on dayroom and outdoor recreation access for the count, the escort of CHS or other non-custodial personnel, and for any lockdown of a facility/housing unit for security reasons.
- J. In cases where a person refuses out-of-cell time repeatedly (*e.g.*, more than 3 times in one week) and the reason for such refusals may be related to their mental health, medical, or disability status, Jail staff will make a referral to CHS (urgent or higher) for assessment and appropriate clinical follow-up.

II. CLOSURE OF DISCIPLINARY ISOLATION (DI) CELLS AND CENTRAL MEN’S SHELTERED LIVING CELLS TO END HOUSING OF PEOPLE IN AREAS OF EXTREME SENSORY DEPRIVATION AND LACK OF PROGRAMMING SPACE

- A. It is the intent of OCSD to end the system of Disciplinary Isolation that has historically applied in Orange County’s jails. This commitment includes ending the use of the 72 “Disciplinary Isolation” (DI) cells, including 24 cells at the Intake and Release Center (IRC), 32 cells at Theo Lacy, 12 cells at Central Men’s Jail, and 4 cells at Central Women’s Jail.
- B. The DI cells at IRC were recently deactivated and will no longer be used for disciplinary or any other form of housing effective. The DI cells at IRC are designated to be repurposed for meeting space available for people in custody (legal counsel meetings, mental health contacts, etc.).
- C. OCSD recently deactivated and will no longer use the DI cells at Theo Lacy, Central Men’s Jail, and Central Women’s Jail for disciplinary or any other form of housing.
- D. Notwithstanding the above, OCSD may use the above-referenced cells on a temporary basis for infection control or exigent security reasons.

III. CREATION OF SPECIAL MANAGEMENT UNIT (SMU) STATUS

- A. With the deactivation of the Disciplinary Isolation cells, OCSD shall revise its Disciplinary system to instead utilize a Special Management Unit (SMU). The SMU will be in designated general modular housing unit(s) and serve as housing for people on a temporary housing status for prescribed periods of time, due to a disciplinary violation. SMU will be utilized for only egregious and violent rule violations.

- B. OCSD and CHS will implement new procedures to limit the number and length of placements in the SMU, including as set forth below.
- C. OCSD shall utilize a disciplinary matrix of penalties that will include alternatives to SMU disciplinary housing status. The matrix shall set forth maximum penalties for each disciplinary violation. SMU disciplinary housing status shall be reserved for offenses involving violence, escape, possession of drugs or weapons, or posing a serious threat to the facility's safety and security or by encouraging others to engage in such misconduct.
- D. No SMU disciplinary term for a rule violation will exceed 30 days. Disciplinary SMU placements for violations that arise out of the same episode shall be served concurrently.
- E. CHS will be notified prior to the placement of any person in the SMU. A medical evaluation will be conducted within 72 hours prior to a person's placement in the SMU. A mental health evaluation will be conducted within 24 hours prior to a person's placement in the SMU.
- F. No person will be placed in the SMU prior to a disciplinary hearing, except in rare cases in which there is a current threat to safety and security of the facility that requires immediate SMU placement.
 - 1. Such placement may occur only with approval of the Watch Commander. CHS will conduct a medical and mental health evaluation within eight hours of the placement.
 - 2. Placement in the SMU pending a disciplinary hearing will not include the loss of any regular privileges.
- G. Upon placement in the SMU, OCSD will provide each individual, in writing and with effective communication accommodations as needed, notice as to the conditions, privileges, expectations, and incentive-based system that applies in the SMU. OCSD staff shall document that this information is communicated effectively to individuals with disabilities affecting communication.
- H. Conditions and Incentive-Based System in the SMU
 - 1. A person placed in the SMU will be offered a minimum of two (2) hours per day of out-of-cell time, with opportunities for interaction with others (*e.g.*, shared dayroom time) consistent with safety and security needs.

Exhibit B: Remedial Plan (DRC, County of Orange)

2. When a person is placed in the SMU, certain privileges may initially be suspended, as determined at the disciplinary hearing.
3. OCSD will develop an incentive-based system to facilitate reinstatement of privileges based on compliance with Jail regulations. The incentive-based system will include consideration – at the Weekly Review (discussed below) – of early discharge from the SMU and/or reinstatement of privileges based on positive behavior, including:
 - a. Outdoor recreation
 - b. Dayroom time beyond the required two (2) hours per day
 - c. Public visiting
 - d. Access to commissary items
 - e. Access to newspapers, magazines and more than one book (the one book will be in addition to any religious materials, with a process for book exchange promptly upon request)
 - f. Access to personal telephone calls
 - g. Electronic tablets
 - h. Cards or games
 - i. Return of personal property items
4. OCSD will develop clear rules that are effectively communicated to incarcerated persons held in the SMU that explain under what circumstances a person can achieve early release from the SMU and/or reinstatement of privileges.
5. Any person placed in the SMU will not be denied exercise of religion. OCSD will ensure that people in the SMU may participate in religious programming, absent a specific security concern that is documented.
6. Access to showers will not be restricted in the SMU. Additional showers will be provided upon reasonable request and in cases where personal hygiene and sanitation warrant, including where necessary to accommodate people with disabilities (e.g., extra showers for individuals with incontinence). OCSD will ensure

adequate documentation as to the provision of showers to each person in the SMU.

7. Any person placed in the SMU will have normal personal mail/correspondence privileges except in cases where the person has been found to have violated correspondence regulations, in which case correspondence may be suspended for no longer than seventy-two (72) hours without the review and approval of the Administrative Captain.
8. Any person placed in the SMU will have access to the telephone on request to contact an attorney, the courts, or for personal emergencies.
9. Access to legal counsel shall not be restricted as a disciplinary measure.
10. Any person in the SMU will always be permitted one book from the Orange County Jail Library, which can be exchanged for another book promptly upon request.

I. Regular Classification Review Process in SMU

1. For each person held in the SMU, custody staff will conduct a review at least every seven (7) days (the “Weekly Review”), regardless of any assessed SMU term imposed, to evaluate the person’s current circumstances and determine whether the person should be removed from the SMU and/or have some or all privileges reinstated.
2. The Weekly Review will include a face-to-face interview in a private, out-of-cell setting, consistent with individual security needs, to discuss progress and compliance with the SMU-detained person’s individual case plan.
3. As part of the Weekly Review, custody staff shall confer with mental health and medical staff about whether the SMU setting and/or denial of privileges/property is causing harm or risk of harm to the individual’s well-being and if so, the appropriate steps to address the issue (including removal from SMU or reinstatement of privileges/property (in particular, phone contact/visits with family/loved ones or access to reading/writing/art materials) pursuant to the incentive-based system). Mental health and medical staff input should be documented.

4. Completion of the Weekly Review process will be overseen by the Watch Commander or other Commander-level-or-higher staff.
5. Absent extraordinary circumstances that include a person's persistent failure to comply with facility regulations in a manner that poses a specific threat to safety and security, no SMU placement will exceed thirty (30) days.
6. If a person is held in the SMU for 28 days, the Administrative Captain will conduct a review (the "28-Day Review"), which shall include a face-to-face interview with the person in a private out-of-cell setting (consistent with individual security needs), consultation with mental health and medical staff, and consultation with custody staff in the housing unit.
7. If a person is retained in the SMU following completion of a Weekly Review or 28-Day Review, OCSD will document and provide the person with written notice explaining (a) the reasons for retention in the SMU, and (b) clear expectations for how the person may earn reinstatement of privileges and progress to a less restrictive setting. This information will be effectively communicated to the individual consistent with any applicable communication- and/or disability accommodation-related needs.
8. Appropriate SMU Review form(s) will be implemented consistent with the provisions set forth herein.

J. Hygiene Items and Writing Supplies

1. OCSD will ensure that persons placed in the SMU receive a welfare pack containing appropriate personal hygiene items and writing supplies.
2. Staff will provide replacement items for all allowable hygiene items and writing supplies promptly upon request, except in cases where the individual is using a particular item improperly.
3. OCSD will ensure complete and adequate documentation of initial and replacement provision of welfare pack items, including all requests and any refusals.
4. Any person placed on SMU restrictions will be provided reasonable access (including promptly upon request) to nail clippers, with appropriate restrictions and supervision based on individualized safety concerns.

- K. OCSD shall not restrict access to Inmate Request forms or Grievance forms in the SMU.
- L. CHS health care staff will conduct rounds in the SMU at least once per shift, and mental health staff will conduct rounds in the SMU at least once per week.
 - 1. These contacts will include, at a minimum: (a) conversation with each person housed in the SMU; b) visual observation of the person's cell, including the cleanliness of clothing and bed linens; (c) inquiry into whether the person would like to request a confidential meeting with a mental health or medical provider.
 - 2. If a person requests a confidential medical or mental health care contact or staff identify a mental health or medical need warranting follow-up, staff shall arrange for timely evaluation and treatment in an appropriate confidential setting.
- M. In recognition of the distinct risks of Restrictive Housing placement in detention, OCSD will not place people with the following risk factors in the SMU absent rare and extraordinary circumstances in which such placement is necessary to address current, specific safety concerns that are documented, with Watch Commander review and approval, and in such cases only for the minimum time necessary to identify an alternative appropriate placement:
 - 1. People diagnosed with Serious Mental Illness or who have an Intellectual or Developmental Disability;
 - 2. People with significant medical or daily nursing care needs, consistent with CHS's clinical input;
 - 3. People who are pregnant, post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy, consistent with CHS's clinical input.
- N. Safety checks to maintain the safety and health of the persons in SMU and the security of the facility shall be conducted for all individuals on SMU status at least every 30 minutes, at staggered intervals. Completion of safety checks will be timely documented.
- O. Return of Personal Property Taken During SMU Status
 - 1. Any personal property that is taken from an individual who is subject to SMU disciplinary status will be clearly logged and

documented, and the personal property will be held in a secure location until returned.

2. Return of personal property should be considered during the period of discipline as part of the incentive-based system.
3. OCSD will return all personal property that was taken during the SMU disciplinary period promptly following the end of the SMU disciplinary period (i.e., within 24 hours). OCSD will document the return of property.

IV. PROHIBITION ON DISCIPLINE FOR BEHAVIORS THAT ARE RELATED TO MENTAL HEALTH OR OTHER DISABILITY, PROHIBITION ON SANCTIONS THAT POSE RISK OF SERIOUS HARM

- A. OCSD and CHS policies and procedures shall require meaningful consideration of the relationship of each person's behavior to any mental health disability or Intellectual/Developmental Disability, the efficacy of disciplinary measures versus alternative interventions, and the impact of disciplinary measures on the health and well-being of incarcerated people with disabilities.
- B. People alleged to have committed a rules violation shall be reviewed by a qualified mental health professional if any of the following apply:
 1. The person is housed in, or is currently referred for placement in, any designated Mental Health Unit.
 2. The Disciplinary Hearing Officer or other jail staff have reason to believe the person's behavior was unusual, uncharacteristic, or a possible manifestation of mental illness, including where referral for CHS evaluation is warranted.
 3. The person is on the mental health caseload and may be subject to (a) Special Management Unit (SMU) placement, or (b) loss of good time/work time credit as a consequence of the disciplinary violation as charged.
 4. If any of the above criteria is met, a mental health clinical staff member who is *not* the treatment provider for the patient shall complete a Rules Violation Mental Health Review form, indicating:
 - a. Whether or not the reported behavior was related to mental illness, adaptive functioning deficits, or other disability.

- b. Whether the person's behavior is, or may be, connected to any of the following circumstances:
 - i. An acute or otherwise significant psychiatric episode
 - ii. An act of self-harm or attempted suicide
 - iii. A cell extraction related to provision of medical/mental health treatment
 - iv. Placement in clinical restraints or seclusion.
 - c. Any other mitigating factors regarding the person's behavior, disability, and/or circumstances that should be considered.
 - d. Whether particular disciplinary sanctions should be avoided in light of the person's mental health disability or intellectual disability, treatment plan, or adaptive support needs (*e.g.*, the potential adverse mental health impact of denial of phone contact/visits with family members).
 - e. CHS staff will consider issues of brain development and psychosocial development for young adults (generally, anyone 24 years old or younger) as part of this evaluation, including as they relate to the appropriateness of discipline for the behavior and the potential adverse impacts of particular disciplinary sanctions.
- C. Consideration of Mental Health Input and Other Disability Information in Disciplinary Process
- 1. The Disciplinary Hearing Officer shall ensure that incarcerated people are not disciplined for conduct that is related to their mental health disability or Intellectual/Developmental Disability.
 - 2. The Disciplinary Hearing Officer shall consider the mental health clinician's findings and any other available disability information when deciding what, if any, disciplinary action should be imposed.
 - 3. The Disciplinary Hearing Officer shall consider the qualified mental health professional's input on minimizing the deleterious effect of disciplinary measures on the person in view of their Serious Mental Illness, any other relevant disability, or adaptive support needs.

4. OCSD shall not subject any person to discipline for refusing treatment or medications, or for engaging in self-injurious behavior or threats of self-injurious behavior.

D. Disability-Related Accommodations During the Disciplinary Process

1. OCSD and CHS shall provide reasonable accommodations (e.g., staff assistant) during the hearing process for people with mental health or intellectual disabilities.
2. OCSD and CHS shall take reasonable steps to ensure the provision of effective communication and necessary assistance to people with disabilities at all stages of the disciplinary process.
3. The Disciplinary Hearing Officer will check the ADA Tracking System and ensure provision of reasonable accommodations and effective communication during the disciplinary process.

E. Supervision and Oversight of Disciplinary Processes

1. OCSD shall designate a supervisory-level Disciplinary Hearing Officer for each facility, to be responsible for ensuring consistency in disciplinary practices and procedures as set forth herein.
2. CHS shall designate a supervisory-level clinician for each jail facility, who shall be responsible for ensuring consistency in disciplinary practices and procedures as set forth herein.