

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

2008 OAL DETERMINATION NO. 23
(OAL FILE # CTU 2008-0314-01)

REQUESTED BY: Michael St. Martin

CONCERNING: Administrative Directive 818 concerning contraband issued by Coalinga State Hospital, Department of Mental Health.

Determination Issued Pursuant to Government Code Section 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of a "regulation" as defined in Government Code section 11342.600¹ and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of a "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, title 1, section 250.² OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

¹ Government Code section 11342.600 states:

"Regulation" means 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.

² California Code of Regulations, title 1, section 250, subdivision (a) defines "underground regulation:"

"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.

ISSUE

On March 14, 2008, Mr. St. Martin (Petitioner) submitted a petition to OAL challenging Administrative Directive 818 (AD 818) issued by Coalinga State Hospital (CSH), a state hospital under the jurisdiction of the Department of Mental Health (Department). AD 818 is titled "Contraband" and includes lists of items which patients at CSH may not possess in various specified areas of CSH.³ The Petitioner alleges that AD 818 meets the definition of a "regulation" and should have been adopted pursuant to the APA.

DETERMINATION

OAL determines that AD 818 meets the definition of a "regulation" as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA.

FACTUAL BACKGROUND

CSH is a state mental health hospital, under the jurisdiction of the Department.⁴ CSH, like other state mental hospitals, has limited authority to act as an independent entity. The responsibility of governing all state mental hospitals lies with the Department. Welfare and Institutions Code section 4101 provides that:

...all of the institutions under the jurisdiction of the State Department of Mental Health shall be governed by uniform rule and regulation of the State Department of Mental Health....

The patients in CSH are "non-LPS" patients, that is, patients who are placed in or committed to CSH pursuant to legal authority *other than* the Lanterman-Petris-Short LPS) Act,⁵ commencing with Section 5000, of Part 1, Division 5 of the Welfare and Institutions Code. For example, Welfare and Institutions Code section 6600 and following, the Sexually Violent Predator Law, provides that inmates of the Department of Corrections and Rehabilitation who are found by a court to be sexually violent predators

³ A copy of AD 818 is included as Exhibit 1.

⁴ Welfare and Institutions Code section 4100 states:
The department [of Mental Health] has jurisdiction over the following institutions: ... (b)
Coalinga State Hospital....

⁵ Pursuant to Welfare and Institutions Code section 5001, the Lanterman-Petris-Short Act provides for care for mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism. CSH does not have an LPS population. According to the Department's website (http://www.dmh.ca.gov/Services_and_Programs/State_Hospitals/Coalinga/Director.asp, viewed on August 21, 2008), CSH is described as a maximum-secured forensic facility that holds both sexually violent predators and mentally ill inmates from the California Department of Corrections and Rehabilitation.

are committed as a patient of the Department. The Department places the patient in an appropriate facility.⁶

On July 12, 2007, the Acting Executive Director of CSH, Ben McLain, issued AD 818. AD 818 states that the purpose of the directive is to:

... provide staff, individuals and all others the information as to what items will not be permitted, or shall have restrictions placed upon their use or possession within the confines of Coalinga State Hospital (CSH). A secondary purpose is to provide a means for amending these listings and to ensure that this information is readily available.

AD 818 establishes five categories of contraband:

- Class 1, Items not allowed on hospital grounds.
- Class 2, Items not allowed inside security.
- Class 3, Items not allowed in individuals' possession.
- Class 4, Supervised items.
- Class 5, Controlled items.

AD 818 details how contraband is to be disposed of, the process for establishing and amending the list of contraband items, steps to be taken when visitors bring items to the hospital, the responsibilities of employees in dealing with contraband items, and how contraband items will be controlled.

AD 818 includes Attachment A, revised July 9, 2007, which is a comprehensive list of contraband items for each of the five classes. For example:

- Class 1 includes illegal drugs, explosives and firearms.
- Class 2 includes chemical dispensing control devices (mace, pepper spray, etc.), chewing gum, metal combs, fountain pens, balloons and newspapers.
- Class 3 includes luggage, cigarette lighters, herbal teas, keys, certain legal documents, make-up, sexually explicit or provocative images, maps of the local area, mirrors, rubber bands and Styrofoam.
- Class 4 includes items which may be used only under direct supervision of a staff member, such as aerosol dispensers, drawing compasses, dental floss, and sandpaper.
- Class 5 includes denture cleaner, die, musical instruments, tape of any kind, fingernail clippers, and electrical appliances and their cords.

⁶ Welfare and Institutions Code section 6604 states:

...If the court or jury determines that the person is a sexually violent predator, the person shall be committed for an indeterminate term to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility designated by the Director of Mental Health.

On June 16, 2008, OAL received a response from the Department. The Department argues that AD 818 does not meet the definition of a regulation for the following reasons:

1. AD 818 is not a regulation. Instead, the AD is a guide of what items would be considered contraband for the specific facility. AD 818 does not apply generally and does not “implement, interpret, or make specific” any statute.
2. AD 818 provides for safety and security.
3. AD 818 is exempt from the requirements of the APA.
4. The issuance of AD 818 is similar to a “local rule” issued by a state prison and exempted from the APA by Penal Code section 5058.

OAL received several comments from the public. The commenters agreed with the Petitioner that AD 818 meets the definition of regulation and should be adopted pursuant to the APA.

On June 27, 2008, OAL received a rebuttal to the Department’s response. The rebuttal does not raise additional issues relevant to this determination.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), prohibits state agencies from issuing rules unless the rules comply with the APA:

(a) 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 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency issued, utilized, enforced, or attempted to enforce a rule that meets the definition of a "regulation" as defined in Government Code section 11342.600 that should have been adopted pursuant to the APA. An OAL determination that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means,⁷ but it is entitled to “due deference” in any subsequent

⁷ We note that the Department’s response included a request that, if OAL finds that AD 818 does meet the definition of a regulation, OAL will continue to allow the Department to continue use of AD 818 until regulations can be promulgated to avoid significant disruptions at CHS and to ensure the safety and

litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244.

To determine whether an agency issued, utilized, enforced, or attempted to enforce an underground regulation in violation of Government Code section 11340.5, it must be demonstrated that the agency rule is a “regulation” and not exempt from the APA.

ANALYSIS

A determination of whether the challenged rule is a “regulation” subject to the APA depends on (1) whether the challenged rule meets the definition of 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.

A 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* (1996) 14 Cal.4th 557, 571, the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) 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 (Gov. Code, § 11342, subd. (g)).

The first element of a regulation is whether the rule applies generally. AD 818 applies to all patients at CSH, their visitors and employees of CSH. As *Tidewater* points out, a rule

security of the patients and staff at CSH. A determination issued pursuant to Government Code section 11340.5 is OAL's legal opinion of whether a rule meets the definition of a “regulation” that should have been adopted pursuant to the APA. OAL has no enforcement powers. Only a court of competent jurisdiction can issue such an order. For example, as noted in the DMH response, in *Morning Star Co. v. State Board of Equalization* (2006) 38 Cal.4th 341, the court found a fee system should have been adopted pursuant to the APA, however, it directed that the fee system be continued in effect until valid regulations could be promulgated.

need not 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. Patients, visitors and employees of CSH are clearly defined classes of persons. The first element is, therefore, met.

The second element established in *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.

As noted above, Welfare and Institutions Code section 4100 states that the Department has jurisdiction over CSH. In addition, Welfare and Institutions Code section 4027 states:

The State Department of Mental Health may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders receiving treatment pursuant to Sections 1026, 1026.2, 1364, 1370, 1610, and 2684 of the Penal Code, Section 1756 of the Welfare and Institutions Code, persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.⁸

AD 818 establishes categories of contraband property and controls the possession and disposal of that contraband property. AD 818 directly affects patients' rights by establishing, among other things, what may or may not be possessed by a patient at CSH. Further by detailing how contraband is disposed of, the process for establishing and amending the contraband list, the responsibilities of CSH staff in dealing with the contraband, the Department is establishing "related procedures". Accordingly, AD 818 implements Welfare and Institution Code section 4027. The second element in *Tidewater* is, therefore, met.

Having met both elements of *Tidewater*, OAL determines that AD 818 meets the definition of "regulation" in Government Code section 11342.600.

The final issue to examine is whether AD 818 falls within an exemption from the APA. Government Code section 11346 requires that an exemption from the APA must be an express statutory exemption. We can find no express APA exemptions that would apply to AD 818.

AGENCY RESPONSE

In its response, the Department makes four arguments for finding that AD 818 does not meet the definition of a regulation. We will address each argument in turn.

1. AD 818 is not a regulation. Instead, the AD is a guide of what items would be considered contraband for the specific facility. AD 818 does not apply generally and does not "implement, interpret, or make specific" any statute. AD 818 is not quasi-legislative.

⁸ These sections discuss non-LPS patients of state hospitals.

As noted above, the *Tidewater* case does not require that all persons in the state be affected by the rule. Rather, it is enough that the rule apply to a clearly defined class of persons. AD 818 prohibits the possession by patients of items specified as contraband. It limits the items which may be sent to patients by friends and family. AD 818 is a rule that applies generally because it declares how a certain open class of cases, those involving the possession of contraband, will be decided.

Furthermore, as discussed above, AD 818 implements, interprets or makes specific Welfare and Institutions Code section 4027 which gives authority to the Department to adopt regulations concerning patients' rights.

Finally, AD 818 is "quasi-legislative." *Tidewater* states that:

A written statement of policy that an agency intends to apply generally, that is unrelated to a specific case, and that predicts how the agency will decide future cases is essentially legislative in nature even if it merely interprets applicable law.⁹

AD 818 lists items which are contraband and which will be confiscated from the patients. The Department intends AD 818 to apply generally to patients at CSH and their families and friends. AD 818 states how the Department will decide all future cases of contraband property. Therefore, it is quasi-legislative action on the part of the Department and is subject to the APA.

2. AD 818 provides for safety and security.

The Department argues that California Code of Regulations, title 9, section 883 establishes a right for patients to be free from harm. The contraband list is intended to ensure that dangerous items do not present a risk to the safety and security in the facility.

OAL sympathizes with the need to ensure the safety and security of the state hospitals and the people who live and work there. However, this determination is limited to the single issue of whether AD 818 meets the definition of a regulation. We have no authority to create an exemption from the APA based upon the situation found in state hospitals. That is the purview of the Legislature pursuant to Government Code section 11346.

3. AD 818 is exempt from the requirements of the APA, pursuant to California Code of Regulations, title 9, section 884 which permits each state hospital to adopt a list of contraband items.

California Code of Regulations, title 9, section 884(b)(1) states:

-
- (b) Non-LPS Patients have the following rights, subject to denial for good cause:
- (1) A right to keep and use personal possessions as space permits, except items and materials that are listed as contraband by the facility. Each facility shall make a copy of the contraband listing available on all

⁹ *Tidewater, supra*, at 574-575

treatment units and public areas within the facility. Each patient shall receive a copy of the contraband listing upon admission.

....

AD 818, however, goes beyond a mere list of contraband items. AD 818 contains requirements for how contraband is to be disposed of, the process for establishing and amending the list of contraband items, steps to be taken when visitors bring items to the hospital, the responsibilities of employees in dealing with contraband items, and how contraband items will be controlled. It would not, therefore, be exempt from the APA.

Additionally, a state agency cannot, by regulation, create an APA exemption. Pursuant to Government Code section 11346, an exemption must be expressly created by the Legislature. The language of section 884 requires that the state hospital distribute and make available on all treatment units and public areas a list of contraband items. Absent an express exemption created by the Legislature, such a list must be adopted by the Department pursuant to the APA. The Department could adopt one list that applies to all state hospitals, or separate lists that apply to the individual state hospitals.

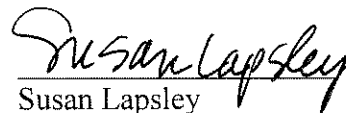
4. The issuance of AD 818 is similar to a "local rule" issued by a state prison and exempted from the APA by Penal Code section 5058.

In Penal Code section 5058 the Legislature recognized that each prison under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR) may have specific conditions unique to that prison. In such cases, the individual prison may adopt rules to address those conditions without following the requirements of the APA. The situation that the Department faces is very similar to that of CDCR; however, Penal Code section 5058 applies only to CDCR and not to the Department. The adoption of a similar "local rule" exemption for DMH is a decision left to the Legislature.

CONCLUSION

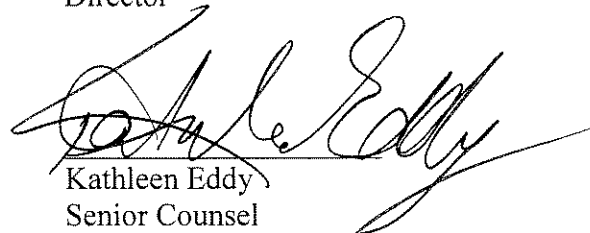
AD 818 meets the definition of a "regulation" as defined in section 11342.600, does not fall within any express statutory APA exemption, and therefore, it should have been adopted pursuant to the APA.

Date: August 27, 2008



Susan Lapsley
Director

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225



Kathleen Eddy
Senior Counsel

Exhibit 1

AD 818

Coalinga State Hospital

OPERATING MANUAL

SECTION - SECURITY
ADMINISTRATIVE DIRECTIVE NO. 818
(Replaces A.D. No. 818 dated 1/19/07)

Effective Date: July 12, 2007

SUBJECT: CONTRABAND

I. PURPOSE

To provide staff, individuals and all others with the information as to what items will not be permitted, or shall have restrictions placed upon their use or possession within the confines of Coalinga State Hospital (CSH). A secondary purpose is to provide a means for amending these listings and to ensure that this information is readily available.

II. AUTHORITY

Department of Mental Health, Special Order 239.02.

III. POLICY

By Order of the Hospital Executive Director, a listing of contraband items, separated by category, be established, maintained, reviewed and distributed.

IV. METHOD

All material or articles listed as a result of this directive have been determined to be contraband. Items that can reasonably be considered dangerous, injurious or a threat to the security of the hospital shall be immediately removed. Any such item shall be immediately submitted to Police Services for evaluation. This may result in a written request to the Executive Director for possible addition and inclusion to the existing lists of contraband items.

V. RESTRICTED AND CONTROLLED ITEMS

- A. The Executive Director shall have all contraband items listed in specific categories.
- B. The completed Contraband List (Attachment A) will be reviewed not less than quarterly by the Contraband and Technology Transfer Committee and submitted to the Executive Director for review.
 - 1. Suggestions for adding or deleting items to the contraband list, or for changing the contraband category of any item should be submitted in writing directly to the Chief of Police who serves as the chairperson for the Contraband and Technology Transfer Committee.

2. Both the Executive Director and the Chief of Police are authorized to declare an item to be contraband immediately when emergency circumstances are present. The item shall remain contraband until reviewed by the next scheduled contraband committee meeting. Declaration of contraband items shall not directly apply to Law Enforcement Officers while in the performance of their duties.
- C. The resulting contraband list will be given the widest reasonable distribution.
- D. It is the responsibility of each employee to remain familiar with these categories and the listed items.

VI. CATEGORIES

- A. Class 1 – Items in this category are prohibited in all areas of the facility and shall not be brought onto the hospital grounds unless specifically authorized by the Executive Director.
- B. Class 2 – Items in this category shall not be brought inside the secured areas of the hospital unless specifically authorized by the Executive Director.
- C. Class 3 – Individuals are not allowed to have any of the items listed in this category in their possession.
- D. Class 4 – Only individuals under the direct supervision of a staff member may use the tools and materials listed in this category. It shall be the responsibility of the assigned employee to ensure that all items are used for the purpose intended and that each item is accounted for and secured after use. Items in this category may be further limited as to location, time, purpose or any other restriction.
- E. Class 5 – A method of control needs to be exerted on the items listed in this category so that they can be accounted for when necessary and not allowed when the individual is unknown to the team, presents as unable to responsibly use the item, or there is evidence of misuse. The staff/team issuing the item will be responsible for ensuring that a method for control is present and restrictions are implemented.

VII. EMPLOYEE RESPONSIBILITIES

- A. All personnel shall recognize the importance for the control of contraband. No employee shall knowingly allow contraband onto the grounds of CSH, or within the secured areas of the facility in violation of this directive.
- B. All employees shall receive in-service training on control of contraband during their orientation to the hospital. All employees shall receive additional, ongoing or remedial training in accordance with the hospital's training standards.

- C. All employees, in conjunction with Police Services, shall be responsible for instructing outside contractors and other service providers in matters relative to contraband and special precautions that shall be taken within the secured areas of the hospital.
- D. Personnel shall not bring more medication into the security area than is required for their shift. All employees shall inform their supervisors daily of any medications in their possession while on duty. This applies to both prescribed and over the counter medications.
- E. Any missing contraband or lost items which may cause a breach in security or potential danger to Individuals and staff shall immediately be reported to Police Services. The Department of Police Services shall maintain a record of all reported items and whether they were subsequently recovered or remain missing. The information from these records will be forwarded to the Hospital Administrator on a monthly basis.

VIII. DISPOSITION

- A. Class 1 and Class 2 contraband items, those not allowed on hospital grounds and not allowed inside security, will be disposed of by Police Services in the manner prescribed by law.
- B. Class 3 contraband items, those not allowed in the Individual's possession, may be stored until returned to the Individual at the time of his release, mailed, destroyed, or turned over to his guardian. Determination of disposition may be made by the Individual if within the rules and regulations of CSH. Any costs involved with the disposition will be the responsibility of the Individual.
- C. Class 4 and Class 5 contraband items shall not be returned until adequate supervision or control has been restored.

IX. CONTROLS

- A. All gifts and donations intended for Individual use must be cleared through Police Services prior to distribution. Gifts or donations will not be given directly to the Individual until approved by Police Services.
- B. Newly admitted Individuals and their property shall be thoroughly searched by Police Services.
- C. Any item brought by a visitor to be given to an Individual will be treated in the same manner as a package received through the mail.
- D. All Individuals shall be searched when leaving the visiting room.
- E. All persons passing through the sallyports are subject to inspection for contraband.

- F. All areas of the hospital shall be periodically inspected for contraband. Inspections may be made at any time by Police Services personnel or other employees within their area of responsibility.
- G. All contraband items shall be confiscated immediately by a staff member and turned over to Police Services as soon as possible. If, during the course of, or as a result of, a formal shakedown, contraband items are found in an Individual's possession, documentation shall be entered into the Individual's record. A Special Incident Report may also be required. Should contraband be seized from an employee, appropriate disciplinary action shall be taken.
- H. The Canteen will submit proposed or new items to the Contraband and Technology Transfer Committee for review and approval prior to offering them for sale.
- I. Should money, cash, phone cards of any type, or legal tender be found through any means, it will be turned over to Police Services in order to determine if a crime has taken place. If no criminal act is identified, these items will be forwarded to the Trust Office for proper disposition.
- J. All reports will clearly indicate the transfer, storage, final disposition or destruction of all contraband.
- K. When otherwise legal items are taken from any Individual by Police Services as evidence or for safekeeping, a receipt will be provided.



BEN MCLAIN
Executive Director (Acting)

Cross Reference(s):

- A.D. No. 606 Complaint Procedure, Individuals
- A.D. No. 626 Individuals' Property and Storage
- A.D. No. 654 Individuals' Personal Computers
- A.D. No. 658 Individual's Use of Electricity and Electrical Devices
- A.D. No. 738 Individual Visiting Regulations
- A.D. No. 810 Security Sallyports
- A.D. No. 830 Special Incident Reports
- A.D. No. 842 Individuals' Dress Code and Clothing Regulations

Attachment A – Contraband List

Attachment A

COALINGA STATE HOSPITAL

CONTRABAND LIST

July 9, 2007

CLASS 1 – NOT ALLOWED ON HOSPITAL GROUNDS:

Not allowed on hospital grounds unless specifically authorized by the Executive Director. Items in this category are prohibited in all areas of the facility and shall not be brought onto the grounds of the hospital.

1. Illegal drugs.
2. Alcoholic beverages.
3. Explosives.
4. Firearms or ammunition.
5. Weapons designed to inflict bodily harm (e.g., swords, spears, daggers).

CLASS 2 – NOT ALLOWED INSIDE SECURITY:

Unless specifically authorized by the Executive Director, the following items in this category shall not be brought inside the secured areas of the hospital.

1. Chemical dispensing control devices (e.g., mace, pepper spray, tear gas).
2. Chemicals not approved by the Health and Safety Department (e.g., ammonia).
3. Chewing gum.
4. Metal combs.
5. Metal files including fingernail files over 1.5 inches long.
6. Fountain pens.
7. Knives.
8. Material giving instructions on escape, bomb making, bugging, surveillance, surreptitious entry, acts of violence.
9. Balloons.
10. Umbrellas (to be stored in Building 20, when holders are installed by Plant Ops).

Attachment A

11. Local city, county regional newspapers or magazines including the Coalinga Record and the Fresno Bee.
12. Excess clothing.
13. Cellular telephones (State Issued is authorized).
14. Flammable liquids.

CLASS 3 – NOT ALLOWED IN INDIVIDUALS' POSSESSION:

At no time will Individuals be allowed to have any of the items listed in this category in their possession.

1. Luggage, including gym bags, valises, attaché cases, backpacks or fanny packs (exception is HIMD delivery satchels).
2. Matches of any type or cigarette lighters.
3. Alarm clocks, which are not of a battery operated solid state manufacture. Plastic 3" x 5" or smaller.
4. Patient combs, hairbrushes and personal care items not made of a flexible plastic material of less than seven inches in overall length.
5. Personal care product containers, which are not clear permitting a visual inspection of the contents.
6. Herbal teas not purchased from the canteen or from an approved vendor.
7. Drugs or medicated products not provided by the hospital.
8. Keys or key rings.
9. Legal documents: identification items or financial payment methods, including but not limited to, driver's license, birth certificates, bonds, Social Security cards, credit cards, bank books, check books, power of attorney, or any form of identification not provided by the hospital. This includes documents that reveal any type of individual personal credit card/account numbers and/or financial information associated with but not limited to credit card statements, bank statements, etc. Individuals may review this documentation with the Trust office.
10. Letter openers that could be used as a weapon.
11. Make-up or material used for make-up.
12. Any sexually explicit images or sexually provocative or nude images of children or any image in violation of the conditions of parole.

Attachment A

13. Maps of Fresno, Kings or Monterey Counties or any source literature providing directions or landmarks of the area.
14. Any material that depicts a rape, beating, sadomasochistic act, child erotica, crime of violence or any photo of an individual's victim.
15. Mirrors.
16. Mirrored sunglasses.
17. Money, money orders, copies of money, foreign or domestic.
18. Metal picture frames and metal pronged fasteners, paper clips or loose staples other than those left intact in magazines.
19. All personal civilian clothing. Exception: approved tennis shoes, white bandanas, sandals, black wave cap, beanie and knit caps (see AD 626).
20. Pictures of the individual alone or of another individual, except for the individual's hospital identification card.
21. Pressurized dispensers.
22. Cable boxes, VCR tapes or personal cameras.
23. Products that contain alcohol content sufficient to be considered to be combustible.
24. LCD, battery operated devices including recording or electronic or mechanical transmitting devices, metal antennas or remote speaker to operate; radios or scanning/monitoring devices capable of receiving law enforcement or fire emergency broadcasts.
25. Headphones shall not contain steel in the headband and the wire from the headset is limited to not more than 48 inches in length. Headphones shall not have a heavy cord and will not cover the ear in such a way as to block out sound from the environment.
26. External speakers are not allowed.
25. Rubber bands.
26. Styrofoam in any form.
27. Saw blades or jeweler's wire.
28. Blank State of California, Department of Mental Health, Coalinga State Hospital or other hospital related letterhead or stationary.

Attachment A

29. Shoehorns.
30. Telephone directories.
31. Concentrated cleaning chemicals.
32. Thermo cups.
33. Pens exceeding 3.5 inches in length.
34. Biohazardous Waste.
35. Hair care or cosmetic products containing caustic or toxic chemicals.
36. Correction fluid or "White Out".
37. Battery chargers for AAA, AA, C, D, and 9 volt batteries. Chargers that come with Laptops and other approved electrical devices are allowed.
38. Musical greeting cards.
39. Collectable trading cards.
40. Spices other than those available through the canteen or dining room.
41. Loose shoelaces, rope or cord.
42. No bottles of any size or material.
43. Reinforced envelopes.
44. Adhesive mailing labels.
45. Cardboard.
46. Metal foil.
47. CD or DVD plastic Jewel Cases. (cassette jewel cases are allowed)
48. Satellite Radios.
49. Shortwave or CB type radios of any type.
50. Global Positioning System devices of any type.
51. Any electronic devices considered new technology. Electronic items not specifically listed as Allowable, will be considered Contraband.
52. Handkerchiefs or bandannas that are not plain white in color.

Attachment A

53. Sunglasses worn indoors that are not prescribed for treatment of photophobia.
54. Desktop type computers of any type.
55. Telephone Calling Cards.

CLASS 4 – SUPERVISED ITEMS:

Only individuals under the direct supervision of a staff member may use the tools and materials listed in this category. It shall be the responsibility of the assigned employee to assure that all items are used for the purpose intended and that each item is accounted for and secured after use. Items in this category may be further limited as to location, time, purpose or any other restriction.

Under appropriate conditions, the following items may be used on units:

1. Aerosol dispensers.
2. Sports, recreational and work assignment equipment that could possibly be used as a weapon or as an escape tool.
3. Any ready to use cleaning substances containing potentially harmful ingredients such as bleach, ammonia, alcohol or similar compounds.
4. Drawing compasses.
5. Dental floss.
6. Ink, chalk or pastels.
7. Hypodermic needles.
8. Electric razors will be used.
9. Sandpaper or emery cloth.
10. Safety scissors.
11. Eating or cooking utensils.
12. Electrical appliances not approved for individuals' use (see Class 5 below).
13. Gloves for specific work assignments.

Attachment A

The following items may be used by responsible individuals only in appropriate off unit locations under the direct supervision of staff.

1. Combustibles or flammables.
2. Electronic gear or parts.
3. Metal files.
4. Glass, glass containers or ceramics.
5. Metal or metal containers.
6. Glue, paints, lacquers, shellacs, acetone or other solvents.
7. Rope, twine or cord.
8. Ladders.
9. Sandpaper or emery cloth.
10. Tools.
11. Calligraphy pens.
12. Pencils less than 3.5 inches.
13. Beading needles.

CLASS 5 – CONTROLLED ITEMS:

A method of control needs to be exerted on the items listed in this category so that they can be accounted for when necessary and not allowed when the individual is unknown to the team, presents as unable to responsibly use the item, or there is evidence of misuse. The staff/team issuing the item will be responsible for ensuring that a method for control is present and restrictions are implemented.

2. Denture cleaner.
3. Dice.
4. Musical instruments.
5. Phonograph records, cassette tapes, CDs, CDRWs, and DVDs.
6. Shoe polish.
7. Tape of any kind.

Attachment A

8. Toothbrushes exceeding 4" in length.
9. Plastic bags not supplied by the hospital.
10. Fingernail clippers.
12. Approved personal tennis shoes that are designed with or without laces.
13. All electrical appliances and their cords. These electrical items must be engraved, itemized and labeled.
14. AC adapters.
15. Cordless surge protectors (only single outlet protectors are allowed).