

## 5.1.5 Disability Placement Program and Developmental Disability Program Staff Accountability

### (a) Policy

The California Correctional Health Care Services (CCHCS) shall ensure all staff comply with the requirements outlined in the Disability Placement Program (DPP) and the Developmental Disability Program (DDP) by maintaining a process to report, log, track, and initiate inquiries into allegations of non-compliance with the DPP and DDP and ensure corrective action where applicable.

### (b) Responsibility

The Chief Executive Officer (CEO) or designee of each institution is responsible for the implementation, monitoring, and evaluation of this policy.

### (c) Procedure

#### (1) Reporting Allegations

- (A) All staff are responsible for identifying and reporting allegations of staff non-compliance with the DPP/ Armstrong Remedial Plan, DDP/ Clark Remedial Plan, or any subsequent court orders associated with the *Armstrong* or *Clark* litigation, even if the non-compliance was unintentional, unavoidable, done without malice, done by an unidentified staff or subsequently remedied.
- (B) All allegations shall be reported via written report (e.g., memorandum, e-mail, audit results) and include any supporting documentation.
- (C) Allegations may be identified through, but not limited to:
  - 1. Internal audits
  - 2. Staff observation
  - 3. Health care grievances
  - 4. Reasonable modification or accommodation request
  - 5. Third party (e.g., Release of Information Log, advocacy letters, monitoring tour reports)

#### (2) Tracking Allegations

- (A) Allegations of non-compliance require placement on the DPP Allegation of Non-Compliance Log if:
  - 1. The patient is a participant in the DPP, has a qualifying or learning disability, or requires accommodation based on a Test of Adult Basic Education (TABE) reading score of 4.0 or less, which includes zero or no TABE reading score.
  - 2. The patient claims denial of equal access to programs, activities or services, or claims a discriminatory/retaliatory action based on the patient's disability.
  - 3. The allegation involves a staff member or contracted employee.
- (B) Allegations of non-compliance that do not require placement on the DPP Allegation of Non-Compliance Log are:
  - 1. Effective Communication (EC) is not appropriately documented pursuant to EC procedures but is documented elsewhere (e.g., progress notes, physician's orders, chronos).
  - 2. Allegations regarding lost or misplaced Durable Medical Equipment as a direct result of a community ambulance transport.
  - 3. Entries in the Disability and Effective Communication system not matching entries in the Strategic Offender Management System or the Electronic Correctional Health Care Organization Solution. Inconsistent entries shall be resolved as appropriate.
  - 4. With the exception of patients with DPW or DPO codes, if a patient arrives at an institution after hours and is placed in a bed that does not meet his or her Americans with Disabilities Act needs, but the patient is moved to an appropriate bed the following calendar day.
- (C) Allegations of non-compliance require placement on the DDP Allegation of Non-Compliance Log if:
  - 1. The patient is a participant in the DDP.
  - 2. The patient claims denial of equal access to programs, activities or services, or claims a discriminatory/retaliatory action based on the patient's disability.
  - 3. The allegation involves a staff member or contracted employee.
- (D) The DDP and DPP Allegation of Non-Compliance Logs shall be maintained separately.

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**(3) Allegation Inquiry**

- (A) There shall be an inquiry into all allegations of staff non-compliance regardless of whether the allegation contains the name of staff members.
- (B) In rare instances where the discovery date is 16 months or older, the allegation shall be discussed with the California Department of Corrections and Rehabilitation (CDCR), Office of Legal Affairs (OLA) to determine whether the incident is too old to initiate an inquiry.
- (C) Initiation of a timely inquiry is necessary to ensure allegations are reviewed while memories are fresh, the facts surrounding the allegations are still in existence, and the violation can be remedied.
  - 1. The inquiry shall be assigned to an appropriate supervisor or manager and initiated within ten business days of being discovered or reported to staff. The inquiry shall be completed within 30 business days of being assigned.
  - 2. The inquiry shall include a review of all information necessary to determine whether the allegation is confirmed or not confirmed or entered in error.
  - 3. The inquiry shall include a mandatory interview with the affected patient with the following exceptions:
    - a. Instances regarding EC where it is determined that EC was not appropriately documented (check boxes not completed nor EC documented elsewhere).
    - b. When an allegation is raised via a CDCR 602 HC, Health Care Grievance, a CDCR 1824, Reasonable Accommodation Request, or a third party and, as a result of that process, a patient interview is conducted that meets the inquiry requirements.
  - 4. The inquiry shall be conducted at the institution where the allegation occurred.
  - 5. The outcome of the inquiry shall be documented and retained as confirmed or not confirmed or entered in error.
- (D) The Health Care Compliance Analyst shall forward allegations and all supporting documentation to the appropriate institution or hiring authority where applicable.

**(4) Written Report of the Inquiry**

- (A) The inquiry shall result in a written report containing the following:
  - 1. Date of discovery
  - 2. Type of allegation
  - 3. Name/title of person conducting the inquiry
  - 4. Patient interview
  - 5. Summary of findings
  - 6. List of all sources of information relied upon (including any staff interviews)
  - 7. Other allegations of non-compliance discovered at the time of the inquiry
  - 8. Conclusion: Confirmed or Not Confirmed
- (B) The written report of the inquiry and all associated documents shall be retained with the corresponding DPP or DDP Allegation of Non-Compliance Log.

**(5) Progressive Discipline**

- (A) The CEO shall determine whether to initiate disciplinary proceedings, corrective action, or referral to the Office of Internal Affairs for an employee found in non-compliance. The following factors shall be considered:
  - 1. Number of prior violations in relation to the overall number of encounters
  - 2. The seriousness of the harm to the patient
  - 3. Culpability of the employee
  - 4. Systemic issue
- (B) The CEO shall discipline employees in compliance with the Employee Disciplinary Matrix set forth in the CDCR, Department Operations Manual, Chapter 3, Article 22, Personnel, Training, and Employee Relations.

**(6) Reporting**

- (A) Each institution shall produce monthly DPP and DDP Allegation of Non-Compliance Logs.
  - 1. Each Log shall record all actions related to allegations of non-compliance for the time period beginning the first day of the month and ending on the last day of the month.

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(B) The DPP and DDP Allegation of Non-Compliance Logs shall be submitted electronically to Field Operations, Corrections Services as soon as possible after the end of the month but no later than the fifth day of the following month (e.g., the January log is due by February 5).

**(7) Disclosure**

(A) Field Operations, Corrections Services staff shall collect, aggregate, analyze, and submit the statewide DPP and DDP Allegation of Non-Compliance Logs to the CCHCS Office of Legal Affairs and OLA on a monthly basis.

(B) The DDP and DPP Allegation of Non-Compliance Logs shall be reported separately.

(C) Staff names shall be removed and replaced with a unique personal identifier.

**References**

- Armstrong Injunction Order, *Armstrong v. Newsom*, United States District Court of Northern California, January 18, 2007
- Armstrong Remedial Plan, *Armstrong v. Newsom*, United States District Court of Northern California, Amended January 3, 2001
- Clark Remedial Plan, *Clark v. California*, United States District Court of Northern California, March 1, 2002
- Order Denying Motion for Contempt, Denying as Moot Motion to Strike and Modifying Permanent Injunction, *Armstrong v. Newsom*, United States District Court of Northern California, August 22, 2012
- Order Revising the Modified Injunction, *Armstrong v. Newsom*, United States District Court of Northern California, December 5, 2014
- Order Modifying January 18, 2007 Injunction, *Armstrong v. Newsom*, United States District Court of Northern California, December 29, 2014
- California Department of Corrections and Rehabilitation, Department Operations Manual, Article 22, Personnel, Training, and Employee Relations
- California Correctional Health Care Services, Armstrong Staff Non-Compliance Log Memorandum, November 2, 2012
- California Correctional Health Care Services, Order Modifying January 18, 2007 Armstrong Injunction Memorandum, January 13, 2015
- California Correctional Health Care Services, Receiver's Memorandum of Understanding, August 24, 2012
- California Department of Corrections and Rehabilitation, California Correctional Health Care Services, Disability Placement Program Compliance Evaluation and Hiring Authority Accountability Memorandum, November 21, 2008
- California Department of Corrections and Rehabilitation, Expectations for Staff Accountability and Non-Compliance of the Disability Placement Program Memorandum, March 29, 2012
- California Correctional Health Care Services, Revision to Staff Accountability Procedures Memorandum, June 8, 2017

**Revision History**

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