

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

**A. GENERAL INFORMATION**

1. Date

01/05/2016

2. Department

California Department of Corrections and Rehabilitation

3. Organizational Placement (Division/Branch/Office Name)

Division of Adult Institutions

4. CEA Position Title

Assistant Deputy Director, Program Operations

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

The Department of Corrections and Rehabilitation (CDCR) proposes to allocate the above position to a CEA category level B within the Division of Adult Institutions (DAI). The Assistant Deputy Director (ADD), Program Operations will have responsibility for the statewide management and administrative oversight for ensuring CDCR's court compliance efforts in Coleman, Clark and Armstrong. Additionally, the ADD, Program Operations will be responsible for the development and management of tracking and support systems to facilitate ongoing compliance with the class action litigation related to Coleman vs Brown court orders; Clark vs California court orders and Armstrong vs Brown court orders; and provides administrative direction and expert advice to the Department, control agencies, and the Attorney General's Office in meeting legal mandates.

6. Reports to: (Class Title/Level)

Deputy Director, Facility Support, Division of Adult Institutions, Exempt

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain): The Assistant Deputy Director, Program Operations, CEA Level B will serve as the subject matter expert and principal advisor on court compliance issues. The incumbent will also be responsible for providing updates to executive staff regarding critical changes or developments related to ongoing class action litigation issues related to the Coleman, Clark, and Armstrong lawsuits.

8. Organizational Level (Select one)

- 1st  2nd  3rd  4th  5th (mega departments only - 17,001+ allocated positions)

## **B. SUMMARY OF REQUEST**

### **9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.**

The ADD, Program Operations will be responsible for managing, organizing and directing CDCR's interests in class action litigation brought against the Department related to Coleman, Clark and Armstrong court orders. The ADD will develop and implement statewide policy, procedures, and protocols to ensure compliance with existing court mandates; provides interpretation of operational policy and procedures concerning ongoing class action litigation, and will ensure that current policies and procedures are adhered to by headquarters and field programs. In addition, the ADD will serve as the subject matter expert and principal advisor on court compliance issues; and will set and perpetuate the goals and objectives of the Department.

The ADD will provide statewide management and administrative oversight for the Department's court compliance efforts and will be responsible for directing the review and implementation of policy, procedures, protocols, and training related to current class action litigation. The incumbent will review laws, regulations, and policies in a proactive manner to anticipate future legal challenges, and will propose new policies and procedures based upon changes to laws in order to prevent future class action litigation; coordinate responses to specific court requirements and compliance initiatives; provide policy guidance and advice to CDCR executive and management staff on the impact of proposed actions and policies related to compliance with the court orders; and will serve as the liaison with the federal court, the Clark and Armstrong Court Experts, the Coleman Special Master, the Governor's Office, the Office of the Attorney General's legal staff, and control agencies in meeting legal mandates.

The ADD will direct the allocation of departmental assets including subject matter experts and attorneys that can assist in the development of departmental exit strategies related to class action litigation; direct the development of departmental policy regulations consistent with the court mandated remedial plan; initiates evidence based outcome analysis related to population management and court-related bed needs, and makes that information available to other stakeholders involved in achieving full compliance. The ADD will review and provide recommendations on proposed legislation, and will review and approve project findings and recommendations related to the Coleman, Clark, and Armstrong class action litigation; and will provide updates to executive staff regarding critical changes or developments related to ongoing class action litigation issues.

The incumbent will oversee multi-disciplinary teams which will include 52 custody and 4 non-custody personnel, responsible for auditing compliance with the policies, procedures, and protocols related to the delivery of services to disabled and mentally ill adult inmates. The ADD will set performance standards and program expectations for institutions by developing programs and policies to ensure compliance with the Coleman, Clark and Armstrong court orders. The incumbent will continuously monitor statewide programs and policies to ensure cost effective compliance with departmental goals; will review existing process to maintain best practices, operational needs and compliance with evolving case law relative to the American's with Disability Act (ADA) and other controlling legislation. Prepare reports to CDCR, the California Correctional Health Care Services executives, and the court, as required, including reports on the status of achieving litigation compliance and activities to improve program performance. The direct oversight should allow the ADD to gradually reduce legal costs associated with each of the class action litigation cases which currently is estimated at \$15.5 million per year.

The ADD will utilize audit instruments that set compliance indicators to facilitate institutional compliance with existing policies and procedures relating to court orders and monitor whether screenings, examinations, treatment plans and treatment comply with established program policies and procedures, including quality management and peer review, and tracking, scheduling and medication administration. In addition, the incumbent will review and respond to the Continuous Quality Improvement Tool (CQIT) reports; develop and implement internal controls to track corrective action plans, reporting requirements and document production order fees and expenses authorized and paid for work in connection with the court orders; and consult with other project teams, including custody, to improve coordination of medical, dental and substance abuse services, and interface with custody functions.

The ADD will ensure the court monitors have access to information that is reasonably necessary for them to perform their responsibilities. Coordinate with CDCR institution staff and the Office of the Attorney General to determine which material is available and subject to the court orders. Coordinate with institution staff to provide court monitors with reasonable access to program areas and inmate housing, and interview with custodial, clinical, and program staff and inmates.

The ADD will manage the provisions of the Memorandum of Understanding (MOU) between Department of State Hospitals (DSH) and CDCR who will be responsible for the transfer of inmate patients from state hospitals to a CDCR institution for care and treatment under conditions of custodial security, including facilitating transfers and court notifications and hearings within the parameters required by the Welfare and Institutions Code. The incumbent will also manage the MOUs with the DSH under which DSH operates, manages and provides acute psychiatric care and Day Treatment Programs. Represent CDCR and DAI in negotiations and agreements concerning the MOUs.

**B. SUMMARY OF REQUEST (continued)**

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The Coleman, Clark, and Armstrong class action lawsuits have been in effect since the 1990's and the Department remains embroiled in these lawsuits due to alleged inability to provide inmates housing, equal access to programs, services, and activities. A valid effort has been made and some progress has been completed, but not to the level of the lawsuits being dismissed. In certain instances, court orders have been issued since the original settlement agreements or Remedial Plans that have addressed the Department's failure to achieve constitutional compliance towards the dismissal of the Coleman, Clark, and Armstrong lawsuits, would represent a regression of the department's efforts towards ending these class action lawsuits.

The ADD would have statewide responsibilities for compliance with the Coleman, Clark, and Armstrong court orders as they relate to the delivery of services for adult inmates with disabilities or mental illness. The ADD will be responsible for developing and implementing policies, protocols, and training necessary to resolve non-compliance issues across the entire spectrum of the disabled or mental health delivery system, which includes monitoring and tracking of mentally ill or disabled inmates; their access to health professionals for treatment; class member and patient access to appropriate levels of care, including outpatient care, residential care, crisis care, and inpatient care; health records and information management systems and quality assurance. In addition, the ADD would monitor logs (housing, disciplinary, etc.) and track CDCR operations in program delivery and services statewide and when necessary interact with Wardens to ensure equal access to programs, services, and activities. By way of overseeing accountability through the noncompliance log, the Request for Accommodation Process, and accessibility and modifications provided through the Armstrong Master Plan. With the aspiration of allowing CDCR the opportunity to self correct and monitor without the oversight of the federal court.

**B. SUMMARY OF REQUEST (continued)**

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

The Coleman, Clark, and Armstrong class action lawsuits have been in effect since the 1990's and the Department remains embroiled in this lawsuit due to alleged inability to provide inmates equal access to programs, services, and activities as inmates without disabilities. A valid effort has been made and some progress has been completed, but not to the level of any one of the lawsuits (Coleman, Clark, and Armstrong) being dismissed. In certain instances, court orders have been issued since the original settlement agreements or Remedial Plans that have addressed the Department's failure to achieve constitutional compliance towards the dismissal of each lawsuit. The CDCR was ordered to develop and implement forms, protocols, and plans necessary to remedy constitutional violations.

The ADD will serve as the administrator with oversight and monitoring responsibility over ADA and mental health delivery systems for adult inmates. Given the direct supervision of predominately peace officer classifications and the interrelationships with institutional managers (Wardens, Chief Deputy Wardens, Correctional Administrators, Captains, etc.), Headquarters Executive Staff (Secretary, Undersecretary, Directors and Deputy Directors, etc.) and institutional staff in the field, the ADD will be called upon to respond to and represent CDCR concerning the court's Special Master and other stakeholders (i.e. court experts, legislative representatives, control agencies, etc.).

Given the complexity and monitoring demands established by the courts and working closely with the court's Special Masters, the ADD, Program Operations will serve as a subject matter expert and will be an intergral part of the process engaged in strategic planning, policy and procedure development, establishing performance measures, monitoring systems and operations, while maintaining a reporting function to CDCR management and the courts. The ADD will provide management, direction, guidance, and consultation to 35 correctional institutions throughout the state concerning compliance with policies, procedures, and protocols on issues of non-compliance for Clark and Armstrong, and formulating corrective action plans regarding Coleman cases and class members. Finally, the ADD will supervise, monitor, and direct the workload of their subordinate staff, supervisors and managers, the majority of which would be peace officer classifications (Correctional Administrators, Captains (Adult Institutions), Correctional Lieutenants, and Correctional Counselor II (Specialist)).

### **C. ROLE IN POLICY INFLUENCE**

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

This position will be directly responsible for developing and implementing statewide departmental policies based upon the rulings of the Federal court. The ADD will serve as the direct point of contact for the Coleman Special Master, the Clark and Armstrong Court Experts, the Federal court, the CDCR field in monitoring and dealing with the inmate class members, along with the Office of Legal Affairs within CDCR and Deputy Attorney Generals office. Specifically, the ADD will engage themselves in the Continuous Quality Improvement Tool (CQIT) process and serve as the subject matter expert (SME) concerning the custody portion of the CQIT, while maintaining familiarity with the Mental Health portion. The ADD will also be the SME for both the Clark and Armstrong class action litigation. The ADD will provide direct oversight for the Armstrong Master Plan, the Accountability process, and the Request for Accommodations Process (RAP).

The Assistant Deputy Director is responsible for making policy recommendations to top management, relative to the program areas within Operations Support and for ensuring policy decisions are properly implemented. The incumbent will meet with and provide advice to the Director, Deputy Director, Associate Directors, mission-based programs, and other top-level departmental executive and management staff regarding sensitive issues affecting policy, procedures and program management. Areas of greatest sensitivity and impact will be resolved by presentation of alternatives and probable consequences to the Division and the Department's management authority. The ADD's oversight will involve formulation, implementation, and interpretation of departmental policy, while ensuring all policies and procedures are adhered to both in headquarters and in the field.

The ADD will serve as a coordinate point between Division units and Associate Directors, mission-based programs and will have extensive interaction with departmental managers and outside agencies. Examples of policy decisions made by this position include the Department's inmate classification, case records, transportation, budgeting, and prison bed management. Major policies recently developed as a result of the Coleman, Clark, and Armstrong court orders include American with Disabilities Act Inmate Assistance Program, and the Clark v. California: Developmental Disability Program Minimum Adaptive Support Services, Standards and Proof of Practice, Security-Welfare Check Procedure Utilizing Guard One System, Multi-Powered Radio Loaner Program in ASU, and the Use of Force Revisions.

Given that many of the policies/procedures resultant in Coleman, Clark, and Armstrong lawsuits are being directed and driven by the Federal courts, the Special Master's influence, the Clark and Armstrong Court Experts, and the DSH, the ADD would be instrumental in assisting in and supporting operational decisions to expedite solutions, to identify needs and objectives, and formulate a roll out of policy. Specifically, the ADD would be instrumental in bridging the mental health needs, physical and development disabilities, and objectives, and the custody necessity to resolve and implement solutions to better address Coleman, Clark and Armstrong class member needs.

Consistency and continuity in the decision making process are critical elements to ensure that Coleman guidelines, Clark Remedial Plan along with the Armstrong Remedial Plan are being met and that the class members mental health, developmental, and physical needs are achieved throughout the Department to the satisfaction of the Federal courts, Clark and Armstrong Court Experts, and Coleman Special Master. The ADD would serve as a liaison between the Federal Court, Clark and Armstrong Court Experts, and Coleman Special Master, and the field/Department staff to ensure that objectives are being met and services are being delivered. Direct monitoring of the Coleman, Clark, and Armstrong programs and actively being engaged in the processes department-wide would better ensure compliance with the court's expectations and result in savings to the State with regards to expedited processes, staff time savings, and mitigation of liability resulting in future litigation.

**C. ROLE IN POLICY INFLUENCE (continued)**

**13. What is the CEA position's scope and nature of decision-making authority?**

The ADD represents a major influence on policy formulation and implementation as they derive from the Federal courts, Clark and Armstrong Court Experts, or the Coleman Special Master. The vast majority of policy is being developed as a direct result of Federal court mandates. The incumbent will be the point of contact person in developing and providing recommendations on regulations, procedures, best practices, and policies to meet and address the Federal court mandates.

The ADD will provide management and administrative oversight for the Department's court compliance efforts and will be responsible for planning, organizing, and directing all program activities and policy for specialized headquarters-based programs and field operations through subordinate managers consistent with the Department's Strategic Plan. These headquarters units are responsible for programs having statewide impact on institution operations and the mission of the department. The ADD will have extensive involvement in the formulation of programs and policies; ensure consistency and uniformity in the development, implementation, and management of policies and procedures; provide direction to Division programs that have statewide impact; and will resolve operational problems.

The ADD will work closely with the Director, Deputy Director, and Associate Directors of DAI for the mission-based programs, Wardens, management from other divisions and other top-level departmental management; and will direct and coordinate activities with other departmental and institutional managers to ensure operational effectiveness and standardization. The ADD will also meet with and respond to inquiries from law enforcement agencies, the Legislature, the Office of Legal Affairs, the Governor's Office, Board of Parole Hearings, Division of Parole Operations, and other agencies who may be stakeholders in the class action litigation process. The incumbent will direct and coordinate activities with other departmental and institutional managers to ensure operational effectiveness and standardization.

**14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?**

The Assistant Deputy Director will oversee the creation and implementation of policy development as well as oversight over existing policy. Examples of policy decisions made by this position include the Department's inmate classification, case records, transportation, budgeting, and prison bed management. Major policies recently developed as a result of the Coleman, Clark, and Armstrong court orders include American with Disabilities Act Inmate Assistance Program, and the Clark v. California: Developmental Disability Program Minimum Adaptive Support Services, Standards and Proof of Practice, Security-Welfare Check Procedure Utilizing Guard One System, Multi-Powered Radio Loaner Program in ASU, and the Use of Force Revisions.