

**State of California
Office of Administrative Law**

In re:
Department of Developmental Services

Regulatory Action:

Title 17, California Code of Regulations

Adopt sections: 59050, 59051, 59052,
59053, 59054, 59055,
59056, 59057, 59058,
59059, 59060, 59061,
59062, 59063, 59064,
59065, 59066, 59067,
59068, 59069, 59070,
59071, 59072

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2016-0126-02

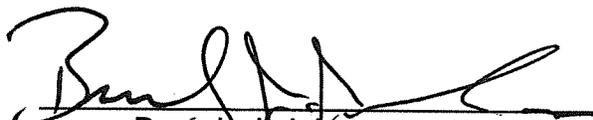
OAL Matter Type: Emergency (E)

This emergency regulatory action by the Department of Developmental Services adopts sections in CCR title 17, to enable eligible consumers to reside in Enhanced Behavioral Supports Homes to avoid placement in more restrictive or out-of-state living arrangements. This rulemaking implements SB 856 and the Lanterman Act, Welfare and Institutions Code section 4500 et seq., enacted to reduce institutionalization of people with developmental disabilities and prevent their dislocation from their home communities.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 2/5/2016 and will expire on 2/6/2018. The Certificate of Compliance for this action is due no later than 2/5/2018.

Date: February 5, 2016


Beverly J. Johnson
Deputy Director

For: DEBRA M. CORNEZ
Director

Original: Terri Delgadillo
Copy: Tiffani Andrade

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

EMERGENCY

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2016-0126-02E
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

2016 JAN 26 A 11: 26

OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Department of Developmental Services

AGENCY FILE NUMBER (if any)

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

FEB -5 2016
2:08 PM

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
Enhanced Behavioral Supports Home

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 59050, 59051, 59052, 59053, 59054, 59055, 59056, 59057, 59058, 59059, 59060, (see attached)
	AMEND
TITLE(S) 17	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State \$100 Changes Without Regulatory Effect Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify) **Department of Social Services**

7. CONTACT PERSON: **Tiffani Andrade** | TELEPHONE NUMBER: **916-654-3016** | FAX NUMBER (Optional): | E-MAIL ADDRESS (Optional): **tiffani.andrade@dds.ca.gov**

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE: *[Signature]* | DATE: **1/11/16**

TYPED NAME AND TITLE OF SIGNATORY
Eric Gelber, Assistant Director, Office of Legislation and Regulations

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 05 2016

Office of Administrative Law

**STD 400 NOTICE PUBLICATION/REGULATIONS SUBMISSION –
Attachment**

**B. 2. Sections affected: (continued) 59061, 59062, 59063, 59064,
59065, 59066, 59067, 59068, 59069, 59070, 59071, 59072**

TITLE 17. PUBLIC HEALTH
DIVISION 2. HEALTH AND WELFARE AGENCY
CHAPTER 3. COMMUNITY SERVICES

SUBCHAPTER 24. ENHANCED BEHAVIORAL SUPPORTS HOMES

59050. Definitions.

The following definitions shall apply to the regulations used in this subchapter:

(a) "Administrator" means the person defined in Title 22, California Code of Regulations, Section 80001(a)(2).

(b) "Assistant Behavior Analyst" means an individual who assesses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer's behavior through skill acquisition and the reduction of behavior, under supervision of a Behavior Analyst. Assistant Behavior Analysts engage in descriptive functional assessments to identify environmental factors of which behavior is a function. An Assistant Behavior Analyst is recognized by the National Behavior Analyst Certification Board as a Board Certified Assistant Behavior Analyst.

(c) "Authorized Consumer Representative" means the parent or guardian of a minor, conservator of an adult, or person who is legally entitled to act on behalf of the consumer.

(d) "Behavior Analyst" means an individual who assesses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer's behavior through skill acquisition and the reduction of behavior. Behavior Analysts engage in functional assessments or functional analyses to identify environmental factors of which behavior is a function. A Behavior Analyst is recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst.

(e) "Clients' Rights Advocate" means the representative of the nonprofit agency with which the Department contracts for clients' rights advocacy services pursuant to Section 4433(b) of the Welfare and Institutions Code who is responsible for clients' rights assurances for persons with developmental disabilities.

(f) "Consultant" means an individual or group eligible for vendorization in accordance with Sections 54319 and 54342.

(g) "Consumer" means an individual who has been determined by a regional center to meet the eligibility criteria of Section 4512(a) of the Welfare and Institutions Code, and Sections 54000, 54001 and 54010, and for whom the regional center has accepted responsibility.

(1) A consumer residing in an Enhanced Behavioral Supports Home is a "client" as defined in Title 22, California Code of Regulations, Section 80001(c)(9).

(h) "Continuous Quality Improvement System" means a process to ensure systematic improvement of services to increase positive outcomes for the consumers being served.

(i) "Day" means calendar day unless otherwise stated.

(j) "Department" means the Department of Developmental Services.

(k) "Direct Care Staff" means facility staff who personally provide direct supervision and special services to consumers, as defined in Section 56002(a). The term includes the licensee, the administrator, management, supervisory, and lead staff during that time when they are providing direct supervision and special services to consumers.

(1) Direct supervision and special services shall include "care and supervision" as defined in Title 22, California Code of Regulations, Section 80001(c)(3).

(l) "Enhanced Behavioral Services and Supports" means additional staffing, supervision, and other services and supports to address a consumer's challenging behaviors, which are beyond what is typically available in other community living arrangements.

(m) "Enhanced Behavioral Supports Home" means an adult residential facility or a group home certified by the Department and licensed by the Department of Social Services that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting, as defined in Section 4684.80 of the Welfare and Institutions Code. An Enhanced Behavioral Supports Home shall have a maximum capacity of four consumers.

(n) "Facility Liaison" means the person, or his or her designee, assigned by the vendoring regional center as the principal coordinator between the regional center and the facility.

(o) "Immediate Danger" means conditions which constitute an impending threat to the health and safety of a consumer and which require immediate action by the regional center to safeguard the health and safety of the consumers in the facility, and as defined in Section 56053.

(p) "Individual Behavior Supports Plan" means the plan that: identifies and documents the behavior and intensive support and service needs of a consumer; details the

strategies to be employed and services to be provided to address those needs; and includes the entity responsible for providing those services and timelines for when each identified individual behavior support will commence.

(g) "Individual Behavior Supports Team" means those individuals who contribute to the development, revision and monitoring of the Individual Behavior Supports Plan for consumers residing in an Enhanced Behavioral Supports Home. The team shall, at a minimum, be composed of the following individuals:

(1) Consumer and, where applicable, authorized consumer representative;

(2) Regional center service coordinator and other regional center representatives, as necessary;

(3) Licensee's qualified behavior modification professional;

(4) Enhanced Behavioral Supports Home administrator;

(5) Regional center clients' rights advocate, unless the consumer objects on his or her own behalf to participation by the clients' rights advocate.

(6) Any other individuals deemed necessary by the consumer, or, where applicable, his or her authorized consumer representative, if any, for developing a comprehensive and effective individual behavior supports plan.

(r) "Individual Program Plan" (IPP) means a written plan that is developed by a regional center planning team, in accordance with the provisions of Sections 4646 and 4646.5 of the Welfare and Institutions Code.

(s) "Planning Team" refers to the planning team defined in subdivision (j) of Section 4512 of the Welfare and Institutions Code, which develops and reviews a consumer's IPP through the planning process described in Sections 4646 and 4646.5 of the Welfare and Institutions Code.

(t) "Qualified Behavior Modification Professional" means an individual with a minimum two years of experience in designing, supervising, and implementing behavior modification services who is one of the following:

(1) An Assistant Behavior Analyst certified by the National Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst.

(2) A Behavior Analyst certified by the National Behavior Analyst Certification Board as a Certified Behavior Analyst;

(3) A Licensed Clinical Social Worker, pursuant to Sections 4996-4998.5 of the Business and Professions Code.;

(4) A Licensed Marriage and Family Therapist, pursuant to Sections 4980-4984.7 of the Business and Professions Code;

(5) A psychologist, licensed by the Medical Board of California or Psychology Examining Board; or

(6) A licensed professional with California licensure, which permits the design of behavior modification intervention services.

(u) "Registered Behavior Technician" means an individual who is primarily responsible for the direct implementation of skill-acquisition and behavior-reduction plans, and practices under the close, ongoing supervision of a Behavior Analyst as defined in subdivision (d) or Assistant Behavior Analyst as defined in subdivision (b). The Registered Behavior Technician may also collect data and conduct certain types of assessments, but may not design intervention or assessment plans. A Registered Behavior Technician is recognized by the National Behavior Analyst Certification Board as a Certified Registered Behavior Technician.

(v) "Substantial Inadequacy" means conditions posing a threat to the health and safety of any consumer, that are not considered an immediate danger as specified in Section 56053, and as defined in Section 56054.

(w) "Working Day" means any day that is not a Saturday, Sunday, or holiday as specified in Sections 6700 and 6701 of the Government Code.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.80 and 4684.86, Welfare and Institutions Code.

59051. General Requirements.

(a) The vendoring regional center shall assign a facility liaison to each vendored Enhanced Behavioral Supports Home.

(b) The Department may decertify an Enhanced Behavioral Supports Home that it determines is not in compliance with applicable laws or when it cannot ensure the health and safety of consumers. The Department shall inform the Department of Social Services of any decision to decertify a facility on the same day.

(c) An Enhanced Behavioral Supports Home must have an operable automatic fire sprinkler system approved by the State Fire Marshal or local fire department as a condition of certification.

(d) The automatic fire sprinkler system must meet the National Fire Protection Association (NFPA) 13D standard for the installation of sprinkler systems in single- and two-family dwellings and manufactured homes.

(e) Each consumer must be provided with his or her own private bedroom.

NOTE: Authority cited: Section 4684.81 and 4684.86, Welfare and Institutions Code.
Reference: Sections 4684.81 and 4684.85, Welfare and Institutions Code.

59052. Facility Program Plan.

(a) An applicant shall develop a facility program plan that includes the following:

(1) Number of consumers to be served;

(2) Consumer admission criteria and procedures;

(3) A description of how the facility will ensure that appropriate services and supports are provided at the time of admission to meet the consumer's immediate needs pending development of the individual behavioral supports plan;

(4) An organizational chart for the staff in the facility and, if applicable, for the organization;

(5) A description of consumer services to be provided;

(6) A description of how the licensee will ensure all direct care staff and consultants are competent to perform their assigned duties, including but not limited to:

(A) A description of the consultant disciplines, qualifications, and hours to be utilized;

(B) A description of staff qualifications and a duty statement for each staff position;

(C) A sample staff schedule;

(D) Staff training plan;

(7) A description of the facility's emergency procedures, including but not limited to:

(A) The facility's emergency evacuation procedures, including procedures for evacuation when delayed egress and secured perimeters are in use pursuant to Sections 56068 through 56074;

(B) The type, location, and response time of emergency medical services;

(C) A description of how regularly scheduled fire and earthquake drills will be conducted on a schedule of no less than every three months, with the drills conducted on alternating work shifts so that drills are conducted during the day and evening hours;

(8) An explanation of how the Enhanced Behavioral Supports Home will ensure the protection of consumers' personal rights, including those specified in Sections 50500-50550;

(9) Consumer exit criteria;

(10) A description of the proposed facility, including size, layout, and location;

(11) A description of the facility's Continuous Quality Improvement System, including but not limited to how:

(A) Consumers will be supported to make choices

(B) Consumers will be supported to exercise rights

(C) Changing needs of consumers will be addressed

(D) Consumers receive prompt and appropriate routine and specialized medical services

(E) Individual risk is managed and mitigated

(F) Medication is safely managed

(G) Staff turnover is mitigated

(12) Date and signature of the applicant.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.81 and 4684.86, Welfare and Institutions Code.

59053. Facility Program Plan Approval.

(a) The facility applicant shall submit the proposed facility program plan to the vendor regional center responsible for contract development.

(b) The regional center shall submit a copy of the proposed facility program plan along with its recommendation concerning approval of the proposed facility program plan to the Department.

(c) Upon approval by the Department, the Department shall issue a Certificate of Program Approval to the Enhanced Behavioral Supports Home and provide a copy of the Certificate of Program Approval to the regional center and the Department of Social Services.

(d) The Certificate of Program Approval must be included in the Plan of Operation submitted to the Department of Social Services.

(e) The facility administrator shall submit any proposed changes in the operation of the facility that alters the contents of the approved facility program plan, including a change of administrator, to the Department, the contracting regional center, and the Department of Social Services. Proposed changes may be implemented only if approved by all three entities.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.81 and 4684.86, Welfare and Institutions Code.

59054. Individual Behavior Supports Plan.

(a) The facility administrator is responsible for coordinating the development and subsequent updating of each consumer's Individual Behavior Supports Plan.

(b) The Individual Behavior Supports Plan must be developed within seven days of the consumer's admission.

(c) The Individual Behavior Supports Team members shall provide their input for inclusion in the Individual Behavior Supports Plan within 30 days of the consumer's admission, review the plan monthly and provide update information as necessary.

(d) The consumer's Individual Behavior Supports Plan must be function-based, evidence-based, and target functionally equivalent replacement behaviors.

(e) The Individual Behavior Supports Plan must include a description of the following:

(1) Baseline behaviors;

(2) Target Behaviors and Goals

(3) Function of Behaviors;

(4) Desired Outcomes/Replacement Behaviors;

(5) Intervention Strategies, including antecedent strategies, instructional strategies and consequence strategies;

(6) Entity responsible;

(7) Environmental changes;

(8) Timelines/Review dates;

(9) Monitoring Progress/Evaluation methods; and

(10) Emergency strategies that may be necessary.

(f) The facility administrator shall submit the Individual Behavior Supports Plan and any updates to the vendoring and/or placing regional center service coordinator and, unless the consumer objects on his or her own behalf, to the clients' rights advocate, when applicable.

NOTE: Authority cited: Sections 4684.80 and 4684.86, Welfare and Institutions Code. Reference: Sections 4684.83 and 4684.86, Welfare and Institutions Code.

59055. Regional Center Monitoring.

(a) The consumer's regional center is responsible for monitoring and evaluating services provided in the Enhanced Behavioral Supports Home by conducting or coordinating at least quarterly face-to-face case management visits with each consumer, or more frequently if specified in the consumer's IPP.

(b) In addition, the vendoring regional center is responsible for monitoring and evaluating services provided in the Enhanced Behavioral Supports Home by conducting a quarterly quality assurance visit using a tool developed by the vendoring regional center and approved by the Department.

(c) A vendoring regional center qualified behavior modification professional shall visit the consumers, announced or unannounced, in person, at least monthly in the Enhanced Behavioral Supports Home to monitor the Individual Behavioral Supports Plan objectives, and prepare written documentation on the status of the objectives. At least four of these visits per year must be unannounced.

(d) The Department shall monitor regional center compliance with subdivisions (a), (b) and (c). Monitoring must include on-site visits by the Department to all Enhanced Behavioral Supports Homes at least once every six months, including review of the written documentation prepared by the regional center qualified behavior modification professional.

(e) If the Department or regional center determines that urgent action is necessary to protect a consumer residing in an Enhanced Behavioral Supports Home from physical or mental abuse, abandonment, or any other substantial threat to the consumer's health and safety, the Department shall direct the regional center to immediately obtain

alternative or additional services and supports to ensure the health and safety of the consumer. The Department may take into consideration any notification by the Department of Social Services pursuant to Section 1567.65 of the Health and Safety Code.

1) If additional services and supports cannot be provided immediately or if the Department determines that a different living arrangement is necessary to ensure the consumer's health and safety, the regional center shall, upon request by the Department, relocate the consumer within 24 hours of the determination, pursuant to Section 4684.81(h) of the Welfare & Institutions Code and Section 1567.65 of the Health & Safety Code.

(2) The regional center shall convene an IPP meeting within two working days of any action taken pursuant to this subdivision to review and update the IPP and the Individual Behavioral Supports Plan, as needed.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.81, 4684.84, 4684.85, and 4684.86, Welfare and Institutions Code and Section 1567.65, Health& Safety Code.

59056. Consumer Admission.

(a) Prior to a consumer's admission:

(1) The administrator shall obtain a copy of a medical assessment of the consumer that, at a minimum, meets the requirements of Title 22, California Code of Regulations, Section 80069 and shall put the medical assessment into the consumer's file prior to or at admission.

(2) The regional center shall assess the consumer's need for emergency interventions.

(3) The regional center shall release written information about the consumer to the administrator pursuant to Section 56017 (b)(1)-(9).

(b) Within seven days of admission:

(1) The administrator, with input from the Individual Behavior Supports Team, shall complete a written Individual Behavior Supports Plan.

(c) Within 30 days of admission:

(1) The administrator, with input from the Individual Behavior Supports Team, shall complete a written functional behavior assessment.

(2) The administrator, with input from the Individual Behavior Supports Team, shall update the written Individual Behavior Supports Plan.

(d) The administrator is responsible for coordinating the development and updating of the plans required in subdivisions (b) and (c).

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59057. Contract.

Prior to placing any consumer into an Enhanced Behavioral Supports Home, the vendoring regional center and the vendor shall execute a contract that includes, at a minimum, all of the following:

(a) The names of the regional center and the licensee;

(b) The effective date and termination date of the contract;

(c) A requirement that, under no circumstances, may the contract extend beyond the stated termination date;

(d) A requirement that the execution of any amendment or modification to the contract be in accordance with all applicable laws and be by mutual agreement of both parties;

(e) A requirement that the licensee and the agents and employees of the licensee, in the performance of the contract, act in an independent capacity, and not as officers or employees or agents of the regional center or the State;

(f) Incorporation, by reference, of the Enhanced Behavioral Supports Home's approved program plan and Certificate of Program Approval as issued by the Department; and

(g) Specification of how any portion of the facility rate unfunded by a consumer placement will be funded, pursuant to Section 59072(a)(3)(A)-(C).

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.82, 4684.86, and 4684.87, Welfare and Institutions Code.

59058. Contract Termination.

(a) A vendoring regional center may terminate its contract with the Enhanced Behavioral Supports Home when the regional center determines that the Enhanced Behavioral Supports Home:

(1) Is unable to maintain substantial compliance with applicable laws or its contract with the regional center, or

(2) Demonstrates an inability to ensure the health and safety of the consumers.

(b) The vendoring regional center shall notify the Enhanced Behavioral Supports Home by letter of its intent to terminate the contract within 30 days of delivery of the letter.

(c) The vendoring regional center shall notify the Department and the Department of Social Services the same day the regional center terminates the contract with the Enhanced Behavioral Supports Home.

(d) If a vendoring regional center terminates its contract with an Enhanced Behavioral Supports Home, the Department shall decertify the Enhanced Behavioral Supports Home and the regional center shall terminate vendorization.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.85 and 4684.86, Welfare and Institutions Code.

59059. Contract Termination Appeals.

(a) An Enhanced Behavioral Supports Home may appeal the vendoring regional center's decision to terminate its contract.

(b) An appeal must be submitted in writing and include reasons and facts demonstrating why the termination is inappropriate.

(c) An appeal must be received by the vendoring regional center within 10 working days from receipt of the regional center letter notifying the Enhanced Behavioral Supports Homes of its intent to terminate the contract.

(d) The vendoring regional center's director shall respond with his or her decision within 10 working days of the date of receipt of the appeal from the Enhanced Behavioral Supports Home.

(e) The vendoring regional center shall submit the director's decision to the Department and the Department of Social Services on the same date it is signed.

(f) The vendoring regional center shall mail the director's decision to the administrator within two working days of signature.

(g) The decision by the vendoring regional center's director is the final administrative decision.

(h) Termination of the contract shall be suspended upon receipt of an appeal pursuant to subdivision (c) pending the outcome of the appeal.

NOTE: Authority cited: Sections 4684.85 and 4684.86, Welfare and Institutions Code. Reference: Sections 4684.85 and 4684.86, Welfare and Institutions Code.

59060. Administrator Qualifications.

(a) An administrator must:

(1) Have a minimum of 2 years of prior experience providing direct care or supervision to individuals with developmental disabilities; and be one of the following:

(A) A Registered Behavior Technician.

(B) A licensed psychiatric technician.

(C) A Qualified Behavior Modification Professional.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59061. Direct Care Staff Qualifications.

(a) A direct care lead staff person must:

(1) Have at least one year prior experience providing direct care to individuals with developmental disabilities; and

(2) Become a Registered Behavior Technician within six months of initial employment; or, be either:

(A) A licensed psychiatric technician; or

(B) A Qualified Behavior Modification Professional.

(b) A direct care staff person must:

(1) Have six months prior experience providing direct care to individuals with developmental disabilities; and

(2) Become a Registered Behavior Technician within twelve months of initial employment.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59062. Staffing Requirements.

(a) At least one direct care lead staff person and one direct care staff person must be on duty at all times when a consumer is under the supervision of the facility staff.

(b) Direct care staff who have not completed the on-site orientation as required by Section 59063 must be under the direct supervision and observation of a fully trained direct care lead staff person while caring for consumers.

(c) The administrator shall assign a qualified behavior modification professional to each consumer. A minimum of 6 hours per month of behavior assessments and behavior interventions must be provided to each consumer by a qualified behavior modification professional. This time must be documented in the consumer file.

(d) Each Enhanced Behavioral Supports Home must have an administrator on duty a minimum of 20 hours per week per facility to ensure the effective operation of the facility.

(e) In addition to the hours required in subsection (c), the facility administrator shall ensure provision of a minimum of 6 consultant hours per month per consumer, which must be appropriate to meet individual consumer service needs.

(f) The regional center shall require an Enhanced Behavioral Supports Home to provide additional professional, administrative, or direct care staff whenever the regional center determines, in consultation with the individual Behavior Supports Team, that additional personnel are needed to provide for the health and safety of consumers.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59063. Staff Training.

(a) Within the first 40 hours of employment, the administrator shall ensure that direct care staff complete a minimum of 32 hours of on-site orientation. The on-site orientation must include the training required pursuant to Title 22, California Code of Regulations Sections 80065(f) and 84065(i) as applicable to the facility's licensure type, and must also address the following:

(1) The specialized needs of each of the consumers;

(2) Consumers' rights and protections pursuant to Sections 50500-50550 and Title 22 sections as follows:

(A) Section 84072 for an Enhanced Behavioral Supports Home licensed as a group home.

(B) Sections 85072 and 80072 for an Enhanced Behavioral Supports Home licensed as an adult residential facility.

(3) The facility's program plan.

(4) Implementation of the consumers' IPPs

(5) Health and emergency procedures, including fire safety

(6) The disaster and mass casualty plan required in Title 22 section 80023, including emergency evacuation and exit procedures when secured perimeters/delayed egress are in use.

(b) In addition to the on-site orientation, the administrator shall ensure that direct care staff receive a minimum of 16 hours of emergency intervention training, which must include the techniques the licensee will use to prevent injury and maintain safety regarding consumers who are a danger to self or others and must emphasize positive behavioral supports and techniques that are alternatives to physical restraints.

(c) A direct care staff person may not implement restraints prior to successfully completing the training required in subdivision (b).

(d) In addition to the training required by subdivisions (a) and (b), the administrator shall ensure that, prior to providing direct consumer care, direct care staff receive hands-on training in first aid and cardiopulmonary resuscitation by a certified instructor.

(1) Direct care staff shall maintain current certifications in first aid and cardiopulmonary resuscitation. The administrator shall maintain the certifications in facility personnel records.

(2) Cardiopulmonary resuscitation certification must be renewed annually.

(e) The administrator shall ensure that direct care staff complete the competency-based training required by Welfare and Institutions Code Section 4695.2(a) and (d), pursuant to Section 56033(b)-(g),(i). Direct Care Staff shall successfully complete both segments of the competency-based training and passage of the competency test, or pass the challenge test, prior to or within one year of employment at the Enhanced Behavioral Supports Home.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59064. Continuing Education.

(a) In addition to the training requirements in section 59063, the administrator shall ensure that direct care staff complete a minimum of 20 hours of continuing education on an annual basis covering, but not limited to, the subjects specified in Section 59063(a).

(1) For Enhanced Behavioral Supports Homes licensed as group homes, 10 of the continuing education hours required by Title 22, California Code of Regulations, Section 84065(j) may be counted towards the required hours.

(b) The administrator shall require additional continuing education, as necessary, to ensure the continued health and safety of each consumer.

(c) Successful completion of the competency-based training and passage of the competency test required by Sections 59063(e) satisfies the direct care staff continuing education requirements specified in subdivision (a) for the year in which the training is satisfactorily completed.

(d) The administrator shall ensure that direct care staff renew the emergency intervention training required in Section 59063(b) annually.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59065. Immediate Danger.

(a) The regional center shall immediately investigate situations that come to the attention of, or are reported to, the regional center that constitute, or may constitute, an immediate danger. Situations requiring investigation include but are not limited to those specified in Section 56053(a)(1)-(5).

(b) When investigating a potential situation constituting an immediate danger, the regional center shall comply with Section 56053(b)-(f).

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59066. Substantial Inadequacies.

(a) The regional center shall investigate situations that come to the attention of, or are reported to, the regional center that constitute or may constitute a substantial inadequacy immediately following the notification. Situations that shall be investigated include those described in Section 56054(a)(1)-(7) and (11)-(13).

(b) When investigating a potential substantial inadequacy, the regional center shall comply with Section 56054(a)(12)(B).

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59067. Corrective Action Plan (CAP).

(a) The regional center and the administrator shall comply with the requirements for CAPs described in Section 56056.

(b) The regional center shall forward a copy of the CAP to the Department and the Department of Social Services.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59068. Sanctions.

The regional center shall apply sanctions to an Enhanced Behavioral Supports Home pursuant to Section 56057.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59069. Facility Appeals.

(a) The administrator may appeal a regional center action in Sections 59065, 59066, or 59068, pursuant to Sections 56061-56065 and 56067.

(b) Implementation of regional center actions during the appeal process occurs as follows:

(1) In the case of immediate danger, the action of the regional center shall remain in effect throughout the appeal process.

(2) In the case of substantial inadequacies, corrective action shall be suspended until the appeal process is complete, except in situations specified in Section 56054(a)(1).

(c) Nothing in subdivision (b) precludes the regional center from taking immediate action if conditions in the facility deteriorate into an immediate danger because the substantial inadequacy has not been corrected.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code

59070. Facility Files.

Facilities shall maintain a facility file, which may include electronic formats, that includes at least the following:

(a) Facility program plan;

(b) Weekly staff schedules;

(c) Personnel records including:

(1) Administrator current credentials, degrees, certificates

(2) Direct Care and Direct Care Lead Staff current credentials, degrees, certificates

(3) Qualified Behavior Modification Professional current credentials, degrees, certificates

(4) Documentation of completed staff training

(5) Hire and separation dates

(d) Certificate of Program Approval as issued by the Department;

(e) Regional center facility liaison monitoring;

(f) Qualified Behavior Modification Professional monitoring;

(g) Findings of immediate danger;

(h) Substantial inadequacies;

(i) Corrective action plans;

(j) Sanctions; and

(k) Facility appeals.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59071. Consumer Files.

Facilities shall maintain a consumer file for each consumer that includes at least the following:

- (a) Medical assessment required in Section 59056(a);
- (b) Individual Behavioral Supports Plan;
- (c) Updated Individual Behavioral Supports Plan;
- (d) Emergency contact information;
- (e) Current IPP; and
- (f) Special incident reports, pursuant to Section 54327.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

59072. Establishment of Rates.

(a) Enhanced Behavioral Supports Home Facility Component – Service Code 900.

(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6023 (New 10/2015) entitled "Enhanced Behavioral Supports Home - Rate Development Facility Costs" for the facility, incorporated herein.

(A) The administrator shall submit a completed Department form DS 6023 to the regional center for review and written approval as part of the initial contract execution pursuant to Section 59057.

(B) The regional center shall review the facility rate as part of the contract renewal pursuant to Section 59057, and the administrator shall submit an updated Department form DS 6023 to the regional center for review and written approval.

(2) The rate of payment for the Enhanced Behavioral Supports Home Facility Component may not exceed the maximum rate of reimbursement as specified below:

(A) The monthly rate of reimbursement to any Enhanced Behavioral Supports Homes vendor for the facility component may not exceed the rate limit determined by the Department.

(B) The rate limit is subject to the appropriation of funds pursuant to the Budget Act of each fiscal year.

(3) Facility rate payment.

(A) The monthly facility rate is pro-rated by the licensed capacity of the facility. Portions not funded by a consumer placement are paid through the contract.

(B) Prior to the facility reaching licensed capacity, the facility rate is paid based on the licensed capacity of the facility, with vacancies funded through the contract. At 6 months from the initial placement in the facility, and at each subsequent 30 days, the vendor and regional center shall meet to determine if the portion of the facility rate funded through the contract due to the unfilled beds will continue.

(C) Once the facility reaches maximum capacity, the facility rate is paid based on the licensed capacity of the facility, despite temporary consumer absences or subsequent temporary vacancies, with vacancies funded through the contract. For purposes of this section, "temporary vacancy" means a vacancy of 60 days or fewer. At 60 days of temporary vacancy, and at each subsequent 30 days, the vendor and regional center shall meet to determine if the portion of the facility rate funded through the contract due to the temporary vacancy will continue.

(D) The established facility rate is prorated for a partial month of service when a consumer is discharged from the facility by dividing the established rate by 30.44, then multiplying the quotient by the number of days the consumer resided in the facility.

(b) Enhanced Behavioral Supports Home Individualized Services and Supports Component – Service Code 901.

(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6024 (New 10/2015) entitled "Enhanced Behavioral Supports Home - Rate Development Individual Costs Associated with Residency", incorporated herein, for each consumer to establish the consumer's individual rate.

(A) The administrator shall submit the completed Department form DS 6024 to the regional center for review and written approval prior to a consumer's admission to the Enhanced Behavioral Supports Home.

(B) A consumer's Individual Behavior Supports Team shall review the consumer's individualized services and supports rate within 60 days of initial placement, and at least annually thereafter, and submit an updated completed Department form DS 6024 to the regional center within 30 days, for review and written approval.

(2) The rate of payment for the Enhanced Behavioral Supports Home Individualized Services and Supports Component may not exceed the maximum rate of reimbursement as specified below:

(A) The monthly rate of reimbursement to any Enhanced Behavioral Supports Home for any consumer's individualized services and supports may not exceed the rate limit determined by the Department.

(B) The rate limit is subject to the appropriation of funds pursuant to the Budget Act of each fiscal year.

(3) Individualized services and supports rate payment:

(A) The established individualized services and supports rate may be paid by the regional center for the full month when the consumer is temporarily absent from the facility 14 days or less per month.

(B) When the consumer's temporary absence is due to the need for inpatient care in a health facility, as defined in subdivision (a), (b), or (c) of Section 1250 of the Health and Safety Code, the regional center may continue to pay the established individualized services and supports rate as long as no other consumer occupies the vacancy created by the consumer's temporary absence, or until the individual health care plan team has determined that the consumer will not return to the facility. Individualized services and supports funded by a regional center during a consumer's absence from the facility must be approved by the regional center director and may only be approved in 14 day increments. The facility shall continue to provide direct supervision and special services as needed during a consumer's temporary absence to continue to receive payment of the individualized services and supports rate.

(C) The established individualized services and supports rate is prorated for a partial month of service in all other cases by dividing the established rate by 30.44, then multiplying the quotient by the number of days the consumer resided in the facility.

(c) Department Forms DS 6023 and DS 6024 are hereby incorporated by reference.

NOTE: Authority cited: Section 4684.81 and 4684.86, Welfare and Institutions Code. Reference: Section 4684.81 and 4684.86, Welfare and Institutions Code.

#

**ENHANCED BEHAVIORAL SUPPORTS HOME - RATE DEVELOPMENT
FACILITY COSTS
DS 6023 (New 10/2015)**

A. CONTACT INFORMATION

Vendor Name:

Vendor #:

Address:

City:

State:

Zip:

B. CATEGORIES AND DESCRIPTIONS OF COSTS

	Total Monthly Cost	Notes
1. Payroll Costs		
a. Administrator Salary		
b. Administrator Payroll Taxes		
c. DSP Lead Salary (168 Hours/Week)		
d. DSP Lead Payroll Taxes		
e. Workers Compensation		
f. Benefit Allowance- Medical, Dental, etc.		
g. Other Costs (Describe):		
Total Payroll Costs	\$ 0.00	
2. Facility Related		
a. Rental, Lease, or Mortgage, include Homeowner's Assoc. Dues		
b. Property Taxes		
c. Combined Utilities: Gas, Electric, Water, Garbage		
d. Janitorial Service, Gardening		
e. Transportation: Vehicle, Maintenance, Fuel (not DP/School)		
f. Telephone: Long Distance, Cell Phones, Pagers		
g. Office Supplies		
h. Insurance: Business Liability, Auto		
i. Fees for Licenses and Memberships		
j. Other Costs: Repairs/Maintenance/Modifications		
k. Other Costs: Cable and Internet		
l. Other Costs (Describe):		
Total Facility Related Costs	\$ 0.00	
TOTAL FACILITY COSTS	\$ 0.00	

C. SIGNATURES

Vendor Signature:

Date:

Print Name:

Regional Center Representative Signature:

Date:

Print Name:

**ENHANCED BEHAVIORAL SUPPORTS HOME - RATE DEVELOPMENT
INDIVIDUAL COSTS ASSOCIATED WITH RESIDENCY
DS 6024 (New 10/2015)**

A. CONTACT INFORMATION:

Consumer Name:		UCI #
Vendor Name:		Vendor #
Vendor Address:		
City:	State:	Zip:

B. CATEGORIES AND DESCRIPTIONS OF COSTS

	Unit Cost	Total Monthly Cost	Notes
1. Salaries and Wages			
a. Total Wages – Hourly Direct Care Staff			
1) Direct Care Staff			
2) Behaviorist			
3) Relief Time/Staff			
4) Other Costs – Describe in Notes			
Total Salaries and Wages Costs		\$ 0.00	
2. Payroll Taxes, Workers Compensation, and Fringe Benefits			
a. Payroll Taxes			
b. Workers Compensation			
c. Benefit Allowance: Medical, Dental, etc.			
d. Other Costs - Describe in Notes			
Total Taxes and Benefits Costs		\$ 0.00	
Total Personnel Costs (Combine Totals from Section 1 and 2 above)		\$ 0.00	
3. Program Costs – Per Consumer			
a. Snacks/Food			
b. Combined Utilities – Additional			
c. Consultant (Non-Behaviorist)			
d. Training			
e. Transportation: Vehicle, Maintenance, Fuel (not DP/School)			
f. Other Costs: Repairs and Maintenance – Additional			
g. Office Supplies - Additional			
h. Other Costs: Outside Activities Expenses			
i. Other Costs: Activity Supplies			
j. Other Costs – Describe in Notes			
Total Program Costs		\$ 0.00	
TOTAL INDIVIDUAL COSTS		\$ 0.00	

C. SIGNATURES

Vendor Signature:	Date:
Print Name:	
Regional Center Representative Signature:	Date:
Print Name:	