

State of California
Office of Administrative Law

In re:
Department of Corrections and
Rehabilitation

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections: 3999.32

Amend sections:

Repeal sections:

NOTICE OF FILING AND PRINTING ONLY

Government Code Section 11343.8

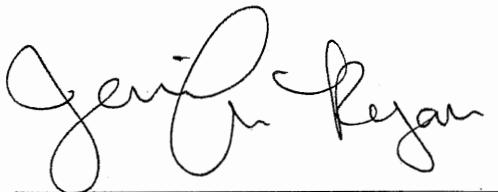
OAL Matter Number: 2025-0204-02

OAL Matter Type: File and Print Only (FP)

This action by the California Department of Corrections adopts section 3999.32 of Title 15 of the California Code of Regulations as a pilot program for Strategic Behavior-Based Housing and Progressive Program Housing. This filing is exempt from the APA pursuant to Penal Code section 5058.1 and is not subject to review by the Office of Administrative Law. This action is effective on filing with the Secretary of State pursuant to Penal Code section 5058.1 and remains in effect for two years.

OAL filed this regulation(s) or order(s) of repeal with the Secretary of State, and will publish the regulation(s) or order(s) of repeal in the California Code of Regulations.

Date: March 11, 2025



Jenifer Ryan
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Jeffrey Macomber, Secretary
Copy: Alison Colavita

NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

STD. 400 (REV. 10/2019)

FILE PRINT

For use by Secretary of State only

OAL FILE NUMBERS
Z-

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER
2025-0204-02EMERGENCY NUMBER
PP

For use by Office of Administrative Law (OAL) only

NOTICE

REGULATIONS

OFFICE OF ADMIN. LAW
2025 FEB 4 AM11:26ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 11 2025

1:40 PM
mAGENCY WITH RULEMAKING AUTHORITY
California Department of Corrections and RehabilitationAGENCY FILE NUMBER (If any)
24-46

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 <input type="checkbox"/> Regulatory Action	4. AGENCY CONTACT PERSON <input type="checkbox"/> Other	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <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) Strategic Behavior-Based Housing and Progressive Program Housing	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 3999.32		
	AMEND		
TITLE(S) 15	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 checked="" type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) <u>Penal Code 5058.1 - Pilot Program</u>	

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

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

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON
Ally ColavitaTELEPHONE NUMBER
(279) 223-2314

FAX NUMBER (Optional)

E-MAIL ADDRESS (Optional)
alison.colavita@cdcr.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.

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

DocuSigned by:
SIGNATURE OF AGENCY HEAD OR DESIGNEE
Jason D. JohnsonDATE
2/3/2025

MAR 11 2025

TYPED NAME AND TITLE OF SIGNATORY
Jason D. Johnson, Undersecretary (A), Operations

Office of Administrative Law

Memorandum

Date : June 2, 2025

To : Bryan D. Phillips, Associate Director (A), High Security Mission
Brian Cates, Warden, California Correctional Institution
Patwin Horn, Warden (A), Kern Valley State Prison
Carlos Arce, Warden (A), Salinas Valley State Prison

INSTRUCTIONAL MEMORANDUM

Subject: **STRATEGIC BEHAVIOR-BASED HOUSING AND PROGRESSIVE PROGRAM HOUSING – PILOT PROGRAM AT CCI, KVSP, AND SVSP**

PURPOSE

The purpose of this memorandum is to announce the implementation of the California Department of Corrections and Rehabilitation (CDCR) Strategic Behavior-Based Housing (SBBH) and Progressive Program Housing (PPH) Pilot Program. The intent of this Pilot Program is to reduce violence among disruptive Sensitive Needs Yard (SNY) designated incarcerated persons and reduce their negative impact on other SNY designated incarcerated persons who wish to safely participate in rehabilitative programs. Additionally, the Pilot Program is designed to reward incarcerated persons displaying positive behavior with additional privileges as identified within this memorandum.

PILOT PROGRAM REQUIREMENTS

Designated staff shall review the behavior of SNY incarcerated persons (consistent with the incarcerated person's recent behavior) and identify them for placement in one of three designated housing units with other incarcerated persons that have the same or similar behavioral patterns. The three designated housing units within the SNY are SBBH, PPH, and the regular SNY (Status Quo). If an incarcerated person is placed within the PPH unit, placement is voluntary. If an incarcerated person is placed within the SBBH, placement is mandatory. If the incarcerated person does not meet the criteria for either the SBBH or PPH units based on no identifiable trend of positive or negative programming, they will remain in a regular SNY housing unit (Status Quo).

PILOT PROGRAM LOCATIONS AND DURATION

The SBBH and PPH Pilot Program will be implemented at the California Correctional Institution (CCI), Kern Valley State Prison (KVSP), and Salinas Valley State Prison (SVSP), within the 180-design facilities. The intent is to monitor the success of the program for possible expansion to all SNY facilities. The Pilot Program will be in effect for 24 months following approval by the

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Office of Administrative Law, and will expire by operation of law at the end of this period unless regulations establishing the program are promulgated through the Administrative Procedure Act prior to the Pilot Program's expiration.

PROGRAM STRUCTURE

PPH Pilot Program

The PPH Pilot Program will give SNY incarcerated persons identified as positively programming, the ability to participate in rehabilitative programs, free from the pressure of violence, extortion, and other disruptive criminal gang activity. The PPH Pilot Program will allow positive programming incarcerated persons to live within a unit that supports the objective to maintain jobs, obtain education, and participate in self-help programs.

Additionally, incarcerated persons may be rewarded for their good behavior with additional privileges when housed in the PPH, such as: increased food sales; modular furniture; larger dayroom televisions; game consoles; and microwaves in the communal areas; and other privileges determined by the Institution's Warden. The aforementioned privileges will create positive reinforcement and incentive for incarcerated persons that create and maintain positive behavior patterns.

SBBH Pilot Program

The SBBH Pilot Program is designated for disruptive incarcerated persons, and those with a high risk of violent behavior. Incarcerated persons identified as participating in gang-related activities and/or patterns of violence will be housed together; therefore, reducing their ability to disrupt institutional operations and denying other incarcerated persons the ability to program successfully in an SNY facility. Clustering of incarcerated persons with disruptive behavior provides an avenue for alternative behavior intervention, allowing staff to focus their resources on identifying and controlling negative behavior, while allowing the PPH participants to be housed away from gang influence and the violence of disruptive incarcerated persons.

PROGRAM PROCEDURES

The criteria for placement and determination into the SBBH or PPH will be determined by the Facility Captain, Correctional Counselor III, or higher classifications; hereafter referred to as the Reviewing Authority. The Reviewing Authority's review shall consist of reviewing the incarcerated person's disciplinary behavior, participation in work/school assignments, and participation in self-improvement classes. Incarcerated persons' behavior will be evaluated on an on-going basis and considered for removal as necessary by the Reviewing Authority.

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Placement into and removal from the SBBH and PPH are considered inner-facility or institutional bed moves, and, therefore, do not require a committee action or a Classification Staff Representative audit, as there is no change to the incarcerated person's case factors. The Reviewing Authority will exercise final discretion in determining the placement of incarcerated persons within the SBBH or PPH Pilot Program based on their comprehensive knowledge of the facility's operational requirements, the demographic composition of the population, and alignment with the overarching goals and objectives of the program structure as outlined in this memorandum.

Considerations for PPH

The PPH reflects a high standard of demonstrated commitment by the incarcerated person to the rehabilitative process and remaining relatively disciplinary free. The Reviewing Authority will consider the substance of any recent Rules Violation Reports (RVR) and how they may affect or reflect on the rehabilitative efforts of the incarcerated person or the integrity of the PPH. All approvals or denials into the program will be decided by the Reviewing Authority. Participation of incarcerated persons is on a voluntary basis. Incarcerated persons are eligible to opt-out of the PPH if they choose but remain subject to housing placement as determined by staff and institutional needs.

To qualify for PPH housing consideration, eligibility will be assessed on the following criteria, which includes but is not limited to:

- Free of Serious RVRs for a period of 12 months.
- Active work, education or vocational assignment. If the incarcerated person has not been assigned an assignment, they shall remain qualified. However, if the incarcerated person has been removed from an assignment for work related or attendance issues, they will not be eligible.
- Participation in self-help or extra-curricular groups/education.
- No recent Security Threat Group (STG)/gang-related activity.

Incarcerated persons with a serious RVR or who have been removed from a job assignment may be considered for approval into the program on a case-by-case basis, these recommendations are subject to the final approval by the Reviewing Authority. Eligible incarcerated persons interested in participating in the PPH can send a request for interview to their assigned Correctional Counselor, a Facility Supervisor, or the Facility Captain.

Consideration for Removal from PPH

Incarcerated persons that behave in a manner inconsistent with the goals of the PPH housing unit may be reassigned to a different housing unit at the Reviewing Authority's discretion. The

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following criteria for removal of an incarcerated person from the PPH shall be considered by the Reviewing Authority on a case-by-case basis:

- Being found guilty of a serious RVR.
- Removal from work, education, or vocation assignment due to negative work behavior, refusal to work, or attendance issues.

Consideration for SBBH

Incarcerated persons housed in SBBH shall be reviewed by the Reviewing Authority as needed but no more than 180 days from initial placement with subsequent ongoing reviews at least every 180 days thereafter. The purpose of the review is to monitor the individual's progress. The Reviewing Authority's review shall consist of the incarcerated person's disciplinary behavior, participation in work or educational assignments, and self-help programs. Removal from the SBBH by the Reviewing Authority shall be based on the individual's commitment to their positive rehabilitative progress and not simply remaining disciplinary free.

SBBH placement will be based on individual behavior, which may include but is not limited to:

- Recent STG/gang influence and activity.
- Threats and intimidation.
- Assaults or batteries.
- Participation in riots.
- Weapon related disciplinary violations.

These behaviors are not a requirement for SBBH housing. Incarcerated persons may be housed in the SBBH based on behavior absent an RVR. Incarcerated persons may be housed in SBBH directly from the Restricted Housing Unit (RHU) for a related disciplinary offense, as determined by the Institution Classification Committee.

RESEARCH AND EVALUATION

Once the Pilot Program has been implemented, CDCR shall evaluate and assess its effectiveness in improving incarcerated persons' behavior, which would be evidenced by an increase in programming free of disruption, an increase in programming attendance, an increase in PPH population over time, and a reduction of serious incidents and RVRs, among other relevant factors.

Additionally, CDCR shall continually evaluate and assess the Pilot Program's effectiveness for reducing incidents and RVRs, through internal audits. The Facility Captain will conduct a quarterly audit of disciplinary patterns, and work, education, and rehabilitative program participation patterns relative to each housing designation within the SNY. Additionally, the

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audits will include interviews with housing unit staff and participating incarcerated persons regarding the impact of the Pilot Program. The results of these audits will be shared with the Warden and Associate Directors who have oversight over the Pilot Program. The results of all internal audits will be utilized as supporting documentation for the development of regulatory language.

If you have any questions regarding this Pilot Program, please contact Michelle Villafuerte, Captain, Division of Adult Institutions, Region III, at (279) 223-7453 or Michelle.Villafuerte@cdcr.ca.gov.

Original signed by:

JASON D. JOHNSON

Undersecretary (A), Operations

California Department of Corrections and Rehabilitation

cc: Jeff Macomber

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Michelle Villafuerte

Note: Authority cited: Sections 5058 and 5058.1, Penal Code. Reference: Section 5058, Penal Code.