

**State of California
Office of Administrative Law**

In re:
**Mental Health Services Oversight and
Accountability Commission**

Regulatory Action:

Title 09, California Code of Regulations

Adopt sections:

Amend sections: 3850, 3850.010

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2018-0409-03

OAL Matter Type: Regular (S)

The Mental Health Services Oversight and Accountability Commission proposed this action to amend regulations concerning the Innovative Programs component of the Mental Health Services Act.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2018.

Date: May 17, 2018



Richard L. Smith
Senior Attorney

For: Debra M. Cornez
Director

Original: Toby Ewing, Executive Director

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Amendments to Innovative Project Regulations Issued May 2018
(Effective July 1, 2018)

Article 5. Reporting Requirements

Amend Section 3580 as follows:

Section 3580. Innovative Project Reports.

- (a) For each approved Innovative Project, the County shall submit to the Mental Health Services Oversight and Accountability Commission the following reports, as applicable.
- (1) For a continuing Innovative Project, an Annual Innovative Project Report as specified in Section 3580.010.
- (A) The first Annual Innovative Project Report is due no later than December 31 following the end of the fiscal year for which the County is reporting. The County may submit the Annual Innovative Project Report as part of ~~the a~~ a Three-Year Program and Expenditure Plan or Annual Update, ~~as long as the documents are submitted no later than December 31 pursuant to this subdivision.~~ Each Annual Innovative Project Report thereafter is due to the Mental Health Services Oversight and Accountability Commission as part of a Three-Year Program and Expenditure Plan or an Annual Update within 30 calendar days of Board of Supervisors approval but no later than June 30 of the same fiscal year, whichever occurs first.
- (B) The County shall exclude from the Annual Innovative Project Report personally identifiable information as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH) and their implementing privacy and security regulations, the California Information Practices Act, and any other applicable state or federal privacy laws.
1. When the County has excluded information pursuant to subdivision (B) above, the County shall submit to the Mental Health Services Oversight and Accountability Commission one of the following:
- a. A supplemental Annual Innovative Project Report that contains all of the information including the information that was excluded pursuant to subdivision (B). This supplemental report shall be marked "confidential".
- b. A supplement to the Annual Innovative Project Report that contains the information that was excluded pursuant to subdivision (B). This supplement to the report shall be marked "confidential".
- (2) Upon completion of an Innovative Project, a Final Innovative Project Report as specified in Section 3580.020.
- (A) The County may submit the Final Innovative Project Report as part of the Three-Year Program and Expenditure Plan, Annual Update, or within six months from completion of the Innovative Project whichever is closest in time to the completion of the Innovative Project.
- (B) The County shall exclude from the Final Innovative Project Report personally identifiable information as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH)

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and their implementing privacy and security regulations, the California Information Practices Act, and any other applicable state or federal privacy laws.

1. When the County has excluded information pursuant to subdivision (B) above, the County shall submit to the Mental Health Services Oversight and Accountability Commission one of the following:
 - a. A supplemental Final Innovative Project Report that contains all of the information including the information that was excluded pursuant to subdivision (B). This supplemental report shall be marked "confidential".
 - b. A supplement to the Final Innovative Project Report that contains the information that was excluded pursuant to subdivision (B). This supplement to the report shall be marked "confidential".

NOTE: Authority cited: Section 5846, Welfare and Institutions Code. Reference: Sections 5830 and 5847, Welfare and Institutions Code.

Adopt Section 3580.010 as follows:

Section 3580.010. Annual Innovative Project Report.

- (a) The Annual Innovative Project Report shall include:
 - (1) Name of the Innovative Project
 - (2) Whether and what changes were made to the Innovative Project during the reporting period and the reasons for the changes.
 - (3) Available evaluation data, including outcomes of the Innovative Project and information about which elements of the Project are contributing to outcomes.
 - (4) Program information collected during the reporting period, including for applicable Innovative Projects that serve individuals, number of participants served by:
 - (A) Age by the following categories:
 1. 0-15 (children/youth)
 2. 16-25 (transition age youth)
 3. 26-59 (adult)
 4. ages 60+ (older adults)
 5. Number of respondents who declined to answer the question
 - (B) Race by the following categories:
 1. American Indian or Alaska Native
 2. Asian
 3. Black or African American
 4. Native Hawaiian or other Pacific Islander
 5. White
 6. Other
 7. More than one race
 8. Number of respondents who declined to answer the question
 - (C) Ethnicity by the following categories:

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1. Hispanic or Latino as follows
 - a. Caribbean
 - b. Central American
 - c. Mexican/Mexican-American/Chicano
 - d. Puerto Rican
 - e. South American
 - f. Other
 - g. Number of respondents who declined to answer the question
2. Non-Hispanic or Non-Latino as follows
 - a. African
 - b. Asian Indian/South Asian
 - c. Cambodian
 - d. Chinese
 - e. Eastern European
 - f. European
 - g. Filipino
 - h. Japanese
 - i. Korean
 - j. Middle Eastern
 - k. Vietnamese
 - l. Other
 - m. Number of respondents who declined to answer the question
3. More than one ethnicity
4. Number of respondents who declined to answer the question
- (D) Primary language used by threshold languages for the individual county
- (E) Sexual orientation,
 1. Gay or Lesbian
 2. Heterosexual or Straight
 3. Bisexual
 4. Questioning or unsure of sexual orientation
 5. Queer
 6. Another sexual orientation
 7. Number of respondents who declined to answer the question
- (F) A Disability, defined as a physical or mental impairment or medical condition lasting at least six months that substantially limits a major life activity, which is not the result of a severe mental illness.
 1. Yes, report the number that apply in each domain of disability(ies)
 - a. Communication domain separately by each of the following
 - (i) Difficulty seeing
 - (ii) Difficulty hearing, or having speech understood
 - (iii) Other (specify)
 - b. Mental domain not including a mental illness (including but not limited to a learning disability, developmental disability, dementia)

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- c. Physical/mobility domain
 - d. Chronic health condition (including but not limited to chronic pain)
 - e. Other (specify)
 - 2. No
 - 3. Number of respondents who declined to answer the question
- (G) Veteran status,
- 1. Yes
 - 2. No
 - 3. Number of respondents who declined to answer the question
- (H) Gender
- 1. Assigned sex at birth
 - a. Male
 - b. Female
 - c. Number of respondents who declined to answer the question
 - 2. Current gender identity
 - a. Male
 - b. Female
 - c. Transgender
 - d. Genderqueer
 - e. Questioning or unsure of gender identity
 - f. Another gender identity
 - g. Number of respondents who declined to answer the question

(5) Any other data the County considers relevant.

- (b) For an Innovative Project serving children or youth younger than 18 years of age, the demographic information required under subdivision (a)(4) of this section relating to children or youth younger than 18 years of age shall be collected and reported only to the extent permissible by Article 5 of Chapter 6.5 of Part 27 of Division 4 of Title 2 of the California Education Code (commencing with Section 49073), Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act of 1996 (HIPAA), California Information Practices Act, and other applicable state and federal privacy laws.
- (c) Except for sexual orientation, current gender identity, and veteran status, a county shall collect and report the demographic information required under subdivision (a)(4) of this section from a minor younger than 12 years of age. Information that cannot be obtained directly from the minor may be obtained from the minor's parent, legal guardian, or other authorized source.

NOTE: Authority cited: Section 5846, Welfare and Institutions Code. Reference: Sections 5830, 5845(d)(6), and 5847, Welfare and Institutions Code.

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