



# ODP Announcement

## Request for Approved Program Capacity and Noncontiguous Clearance

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### ODP Communication Number 071-18

*The mission of the Office of Developmental Programs is to support Pennsylvanians with developmental disabilities to achieve greater independence, choice and opportunity in their lives.*

**AUDIENCE:** Administrative Entities, Supports Coordination Organizations, Providers of the following Consolidated, Person/Family Directed Support, and Community Living Waiver services: Residential Habilitation (licensed and unlicensed), Life Sharing (licensed and unlicensed), Supported Living and Respite (licensed and unlicensed), as well as Community Participation Support provided in Licensed Adult Training Facilities, Vocational Facilities and Older Adult Daily Living Centers, and any other interested parties.

**PURPOSE:** This Office of Developmental Programs' (ODP) communication is to inform all interested parties providing services in the Consolidated, Person/Family Directed Support (P/FDS), and Community Living Waivers of the new process and form ODP staff will utilize in determining Approved Program Capacity (APC) and noncontiguous location clearance.

**DISCUSSION:** The APC and Noncontiguous Clearance process has been updated to align with requirements in the Consolidated, P/FDS, and Community Living Waivers as well as to anticipate some changes in regulatory requirements. While ODP has established APC for Residential Habilitation in homes licensed under 55 Pa. Code Chapter 6400, APC will now be established for all licensed and unlicensed homes where Residential Habilitation, Life Sharing, or Supported Living occur. Further, the process and form include Noncontiguous Clearance of all licensed and unlicensed homes where Residential Habilitation and Life Sharing will be provided, licensed homes where Respite will be provided, as well as licensed facilities where Community Participation Support services will be provided to ensure that each home and facility are noncontiguous.

**DEFINITION OF KEY TERMS:**

**Approved Program Capacity** - The maximum number of participants who are authorized by the Department to receive services at a Residential Service location(s).

**Licensing capacity** - The maximum number of participants that can reside or receive services at a service location based on the applicable licensing regulations. The licensing capacity may be greater than or equal to the APC but can never be less than the APC. A provider may never serve more people at the location than they have licensed capacity to serve.

**Community Participation Support Facilities** - Licensed Adult Training Facilities (55 Pa. Code Chapter 2380), Vocational Facilities (55 Pa. Code Chapter 2390), and Older Adult Daily Living Centers (6 Pa. Code Chapter 11) that provide Community Participation Support services funded by ODP. This definition does not include community hubs and service locations where Community Participation Support services are provided 100% of the time in the community.

**Noncontiguous Community Participation Support Facility locations** - For Community Participation Support facility locations that are newly funded 120 days after the publication of the 55 Pa. Code Chapter 6100 regulations to be considered noncontiguous, the locations must not be adjacent to another residential human service residential service location or human service day service location serving primarily persons with a disability.

**Noncontiguous Residential Service locations** - For a Residential Service location where Residential Habilitation, Life Sharing, and Respite Only Homes are provided to be considered noncontiguous, the location must be integrated and dispersed in the community and may not be located on campus settings. The location of each residential service location must be separate from any other ODP-funded residential service locations and not surrounded by other ODP-funded residential service locations. Residential service locations that share only one common party wall, side-by-side, or back-to-back with another service location do not need Noncontiguous Clearance. Further, residential service locations that are newly funded 120 days after the publication of the 55 Pa. Code Chapter 6100 regulations may not be adjacent to another residential human service residential service location or human service day service location serving primarily persons with a disability.

**Residential Service locations** - Licensed and unlicensed locations providing Residential Habilitation, Respite, and Life Sharing, as well as homes where Supported Living are provided.

**Respite only home:** A service location licensed under 55 Pa. Code Chapter 6400 that solely provides respite services in the home.

## **REQUEST PROCEDURES:**

Prior to opening a new service location, closing an existing service location, or changing the program's capacity, the provider will email the attached *Request for Approved Program Capacity and Noncontiguous Location Clearance* form, attachment #1, to the Regional Waiver Capacity Manager that covers the geographic area where the service location is located (*see Regional Waiver Capacity Manager Contact Information*, attachment #3). The form will include

information about the circumstances and the location that will enable the Regional Waiver Capacity Manager to ensure that the new or existing service location meets ODP criteria contained in the waiver and applicable regulations. After the Regional Waiver Capacity Manager receives the form and reviews the information, they will document their decision on the *Request for Approved Program Capacity and Noncontiguous Location Clearance* form, attachment #1, and will send the determination to the provider.

## REQUIREMENTS

### ► **Noncontiguous Location Requirements for Community Participation Support Facilities**

Providers who open a new Community Participation Support facility must obtain approval from the Regional Waiver Capacity Managers verifying that the service location is a noncontiguous location.

- Community Participation Support providers only need to get noncontiguous clearance if Community Participation Support services are rendered for any amount of time in a Community Participation Support facility. This form does not need to be completed when the provider renders Community Participation Support services in community locations (including hubs) 100% of the time.
  - For this reason, the APC and Noncontiguous form, attachment #1, is required for any Community Participation Support facility that will enroll to provide Community Participation Support services on or after 120 days from the date of publication of the Chapter 6100 regulations.

The following requirement will be contained in the 55 Pa. Code Chapter 6100 regulations when published for Community Participation Support facility locations:

*A day service location, which is newly funded in accordance with this chapter, may not be located adjacent to another human service residential service location or another human service day service location serving primarily persons with a disability.*

To comply with this requirement, Regional Waiver Capacity Managers will determine whether the Community Participation Support facilities are adjacent to any of the following settings:

- Licensed Child Residential Services (55 Pa. Code Chapter §3800)
- Licensed Community Residential Rehabilitation Services for the Mentally Ill (CRRS) (44 Pa. Code Chapter §5310)
- Licensed Personal Care Homes (55 Pa. Code Chapter §2600)
- Licensed Assisted Living Residences (55 pa. Code Chapter §2800)
- Licensed or Unlicensed Family Living Homes (55 Pa. Code Chapter §6500)
- Licensed and Unlicensed Community Homes for Individuals with an Intellectual Disability or Autism (55 Pa. Code Chapter 6400)
- Licensed Adult Training Facilities (ATF) (55 Pa. Code Chapter 2380)
- Licensed Vocational Facilities (55 Pa. Code Chapter 2390)
- Licensed Older Adult Daily Living Centers (6 Pa. Code Chapter 11)

- Licensed public and private Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID) (55 Pa. Code Chapter 6600)
- Unlicensed Supported Living

This will apply to licensed settings that are funded through any source (OCYF, OMHSAS, private pay, etc.), not just through ODP funding sources.

The Regional Waiver Capacity Managers will further determine whether Community Participation Support facilities are located in, attached, or adjacent to:

- Skilled Nursing Facility (55 Pa. Code Chapter 201)
- Hospital

**► Noncontiguous Location Requirements for Residential Service Providers**

The following requirements are contained in the Consolidated Waiver for Residential Habilitation and Life Sharing as well as Life Sharing in the Community Living Waiver:

*All settings must be integrated and dispersed in the community in noncontiguous locations and may not be located on campus settings. To meet this requirement, the location of each setting must be separate from any other ODP-funded residential setting and must be dispersed in the community and not surrounded by other ODP-funded residential settings. Settings that share only one common party wall are not considered contiguous. Settings should be located in the community and surrounded by the general public.*

This requirement is in addition to the requirements contained in 55 Pa. Code Chapter 6100. Providers who open a new Residential Service location must obtain approval from the Regional Waiver Capacity Managers verifying that the service location is a noncontiguous location. This request must be made separately and before the provider can submit a request for APC for the service location.

To comply with the requirements, Regional Waiver Capacity Managers will determine whether the Residential Service locations (excluding Supported Living) are adjacent to any of the following settings:

- Licensed Child Residential Services (55 Pa. Code Chapter §3800)
- Licensed and Unlicensed Community Residential Rehabilitation Services for the Mentally Ill (CRRS) (44 Pa. Code Chapter §5310)
- Licensed Personal Care Homes (55 Pa. Code Chapter §2600)
- Licensed Assisted Living Residences (55 Pa. Code Chapter §2800):
- Licensed or Unlicensed Family Living Homes (55 Pa. Code Chapter §6500)
- Community Homes for Individuals with an Intellectual Disability or Autism (55 Pa. Code Chapter 6400):
- Licensed Adult Training Facilities (ATF) (55 Pa. Code Chapter 2380)
- Licensed Vocational Facilities (55 Pa. Code Chapter 2390)
- Licensed Older Adult Daily Living Centers (6 Pa. Code Chapter 11)

- Licensed public and private Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID) (55 Pa. Code Chapter 6600)
- Unlicensed Supported Living

This will apply to licensed settings that are funded through any source (OCYF, OMHSAS, private pay, etc.) not just through ODP funding sources.

► **Approved Program Capacity Requirements for Residential Service Providers**

APC applies to Residential Habilitation, Life Sharing, and Supported Living. The following requirements will be contained in the 55 Pa. Code Chapter 6100 regulations when published:

*A provider shall submit a written request to the Department on a form specified by the Department and receive written approval from the Department prior to increasing or decreasing the Department-approved program capacity of a service location.*

A request for APC must be made when the service provider plans to open a new Residential Service location, close a Residential Service location, or change the program capacity for an existing Residential Service location. APC will be approved as follows:

- A Residential Habilitation Service location newly enrolled to provide waiver services on **July 1, 2017** or later shall not exceed a program capacity of 4. With ODP's written approval, an ICF/ID licensed in accordance with 55 Pa. Code Chapter 6600 with a licensed capacity of 5 to 8 individuals may convert to a Residential Habilitation Service location exceeding the program capacity of 4.
- A Residential Habilitation Service location enrolled to provide waiver services prior to **July 1, 2017**, shall not exceed a program capacity of 8. With ODP's written approval, a Residential Habilitation service location with a program capacity of 8 may move to a new location and retain the program capacity of 8.
- Residential Habilitation Service locations enrolled prior to the publication of the Chapter 6100 regulations, that are in a duplex, two bilevel units, or two side-by-side apartments are permitted as long as the total in both units does not exceed a program capacity of 8.
- A Life Sharing service location shall not exceed a program capacity of 2.
- A Supported Living service location shall not exceed a program capacity of 3.
- Effective the date the Chapter 6100 regulations are published, any newly funded Residential Habilitation Service Locations in a duplex, two bilevel units or two side-by-side apartments are permitted as long as the total in both units does not exceed a program capacity of four.

► **Licensure Request**

Providers need to become familiar with the licensing requirements and whether they pertain to a setting owned, leased, or operated by the provider. This is relevant in requests for APC where Regional Waiver Capacity Managers will review the licensed capacity of a setting when applicable.

For further information on licensing, please contact:

**Traditional mail:**

Office of Developmental Programs  
Bureau of Community Supports  
625 Forster Street, Room 412  
Harrisburg, Pennsylvania 17105  
**Attention: Licensing Management Unit**

**Electronic mail:**

**RA-odplicensing@pa.gov**

**ATTACHMENTS**

- Attachment #1: Request for Approved Program Capacity & Noncontiguous Clearance Form
- Attachment #2: Instructions for Completing the Approved Program Capacity & Noncontiguous Clearance Form
- Attachment #3: Regional Waiver Capacity Managers Contact Information

**OBSOLETE:**

*ODP Communication Packet 055-12, Waiver Renewal Implementation ODP Approval of Residential Services Locations and Approved Program Capacity and Attachment 1 Sample Letter*