

## Coronavirus Disease 2019 (COVID-19):

### Guidance for Maintaining Regulatory Compliance in Community Participation Support Facilities during the COVID-19 Pandemic

[ODP Announcement 20-016](#)

#### **AUDIENCE:**

Licensed Adult Training Facilities, licensed Vocational Facilities, and all other interested parties

#### **PURPOSE:**

This announcement provides guidance to licensed Community Participation Support (CPS) Facilities about maintaining compliance with 55 Pa. Code Chapters 2380 and 2390 during the COVID-19 pandemic.

#### **DISCUSSION:**

The Pennsylvania Department of Health (DOH) monitors community transmission to determine the degree to which COVID-19 has spread within a county. DOH categorizes a county's level of community transmission as low, moderate, or substantial based on a standard public health metric called PCR Percent Positivity.

PCR Percent Positivity is calculated by dividing the number of positive PCR tests by the total number of PCR tests performed. For example, if 3 COVID tests out of 100 yield positive results, the PCR Percent Positivity is 3%. A county has a substantial level of community transmission if the PCR Percent Positivity for the county is greater than 10%.

On January 26, 2021, the Office of Developmental Programs (ODP) released an update to [ODP Announcement 20-101](#), which recommends that CPS facilities temporarily close when there is a substantial level of community transmission of COVID-19 in the county where the CPS facility is located and describes the process for reopening CPS facilities when the level of community transmission has decreased.

Because levels of community transmission are updated weekly, counties may shift from one level of community transmission to another weekly. For example, a county with a substantial level of community transmission may shift to a moderate level of community transmission the following week, and subsequently return to a substantial level of community transmission the week after that. As a result, CPS Facilities are subject to repeated instances of closure and reopening during the course of the COVID-19 pandemic.

Not all individuals who were receiving services at a CPS Facility will return to the facility upon reopening. Individuals may elect not to immediately return to the facility or the facility may not be able to support all individuals and still engage in COVID-19 mitigation strategies such as physical distancing. It is anticipated that all individuals who were receiving services at a CPS Facility prior to closures necessitated by the COVID-19 pandemic will resume receiving services as soon as it is safe to do so. Individuals who were receiving services at a CPS Facility will not be considered “new admissions” when they resume receiving services at the CPS Facility. Some regulations in Chapters 2380 and 2390 require that specific activities be performed upon admission of an individual to a CPS Facility and on an annual basis. Many CPS Facilities have requested guidance about how to maintain regulatory compliance with these regulations given the repeated instances of closure and reopening during the course of the COVID-19 pandemic.

## **EXPECTATIONS FOR REGULATORY COMPLIANCE**

With the Governor’s authorization as conferred in the Proclamation of Disaster Emergency issued on March 6, 2020, as renewed on June 3, 2020, August 31, 2020, and November 24, 2020, specified provisions in 55 Pa. Code Chapters 2380 and 2390 are suspended until June 30, 2021, or such other time as ODP directs. A list of suspended regulations and ODP’s guidance for regulatory compliance with Chapters 2380 and 2390 is attached as Appendix A.

In most cases, the suspension is such that full compliance with each regulation is required on or before June 30, 2021 as most CPS facilities are expected to fully reopen prior to that date. However, ODP continues to monitor the COVID-19 pandemic’s impact on service delivery and may extend suspension of the regulatory requirements beyond June 30, 2021 based on changing conditions. CPS Facilities will be notified of any extensions such that they are offered sufficient notice to adjust operations accordingly.

As noted above, individuals who were receiving services at a CPS Facility will not be considered “new admissions” when they resume receiving services at the CPS Facility. Any

individual who begins receiving services at a CPS facility on or after July 1, 2021 will be considered a new admission. CPS Facilities must comply with the regulations exactly as written for all new admissions.

ODP strongly recommends that CPS Facilities complete the required activities for individuals at different times between the release of this announcement and the coming months to effectively balance their operational workloads. ODP continues to encourage all CPS Facilities to use audiovisual technology for required trainings and evaluations whenever possible.

Due to the impact of the COVID-19 pandemic, individuals may receive CPS services outside of a CPS Facility. During the time that an individual is not actively receiving CPS services in a facility, the program specialist requirements at 55 Pa.Code § 2380.33(a-b) and § 2390.33(a-b) do not apply to the individual. Additionally, the individuals who are not actively receiving services will not be counted on the program specialist's caseload ratio .

Providers may choose to have program specialists perform program specialist duties for individuals who do not receive CPS services in a CPS Facility. If this occurs, the individuals are counted on the program specialist's caseload ratio.

**ODP CONTACT INFORMATION:**

Please contact the ODP Regulatory Administration Unit at [RA-PW6100REGADMIN@pa.gov](mailto:RA-PW6100REGADMIN@pa.gov) with questions about this announcement.

| Regulation - Chapter 2380  | Regulation – Chapter 2390   | Guidance  |
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| <p>§ 2380.21(u) - The facility shall inform and explain individual rights and the process to report a rights violation to the individual, and persons designated by the individual, upon admission to the facility and annually thereafter.</p>  | <p>§ 2390.21(u) - The facility shall inform and explain client rights and the process to report a rights violation to the client, and persons designated by the client, upon admission to the facility and annually thereafter.</p>                           | <p>CPS Facilities must inform and explain the information required by these regulations to the individual and persons designated by the individual on or before June 30, 2021 for any individual who received services at the facility prior to that date.</p> <p>The date the above information is provided to the individual and the individual’s designated person establishes the date the information must be provided on an annual basis going forward.</p> |
| <p>§ 2380.91(a) - An individual shall be instructed in the individual’s primary language or mode of communication, upon initial admission and reinstructed annually in general fire safety, evacuation procedures, responsibilities during fire drills, the designated meeting place</p> | <p>§ 2390.87 - Staff, and clients as appropriate, shall be instructed upon initial admission or initial employment and reinstructed annually in general fire safety and in the use of fire extinguishers. A written record of the training shall be kept.</p> | <p>CPS Facilities must provide the instruction required by this regulation on or before June 30, 2021 for any individual who received services at the facility prior to that date.</p> <p>The date the above instruction is provided to the individual establishes the date the information must be provided on an annual basis going forward.</p>  |

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| <p>outside the building or within the fire safe area in the event of an actual fire, and smoking safety procedures if individuals smoke at the facility.</p> |   |   |
| <p>No corresponding regulation.</p>  | <p>§ 2390.143(a) - A written work performance review shall be completed for a handicapped employment client annually. A copy of the review shall be in the client's file.</p> | <p>Facilities must complete written work performance reviews on or before June 30, 2021 for any individual who received services at the facility prior to that date.</p> <p>The date performance review is completed establishes the date the information needs to be provided on an annual basis going forward.</p>  |
| <p>§ 2380.111(a) - Each individual shall have a physical examination within 12 months prior to admission and annually thereafter.</p>                        | <p>No corresponding regulation.</p>   | <p>For any individual who received services at the facility prior to June 30, 2021 CPS Facilities are to use the most recent physical examination results available for the individual until June 30, 2021. Individuals must have a complete physical examination on or before June 30, 2021. Physical examinations may be conducted using remote technology or Telehealth. The date the physical examination is completed establishes the date by which the physical examination must be completed annually going forward.</p> |

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| <p>§ 2380.181(a) - Each individual shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the facility and an updated assessment annually thereafter.</p> | <p>§ 2390.151(a) - Each client shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the facility and an updated assessment annually thereafter.</p> | <p>For any individual who received services at the facility prior to June 30, 2021 CPS Facilities are to use the most recent assessment information available for the individual until June 30, 2021. Individuals must have a complete assessment completed on or before June 30, 2021. The date the assessment is completed establishes the date by which the physical examination must be completed annually going forward.</p>  |
| <p>§ 2380.182(b) - The initial individual plan shall be developed based on the individual assessment within 90 days of the individual's date of admission to the facility.</p>                    | <p>§ 2390.152(b) - The initial individual plan shall be developed based on the client assessment within 90 days of the client's date of admission to the facility.</p>                        | <p>If the facility is responsible for developing the individual plan, the individual plan must be updated within 90 days of the date the assessment was completed as described in § 2380.181(a) above.</p> <p>If the facility is not responsible for developing the individual plan (e.g., the individual plan is developed by the individual's supports coordinator in conjunction with the individual plan team), the program specialist will encourage the individual plan team to revise the individual's individual plan within 90 days of the date the assessment was completed as described in § 2380.181(a) above.</p> |