



**Office for People With
 Developmental Disabilities**

ADMINISTRATIVE MEMORANDUM

Transmittal:	2018-ADM-02
To:	Executive Directors of Voluntary Provider Agencies Developmental Disabilities Regional Office Directors State Operations Office Directors Care Coordination Organizations and Care Managers Medicaid Service Coordinators and MSC Supervisors
Issuing OPWDD Office:	Division of Person-Centered Supports Program Development
Date:	May 22, 2018
Subject:	Distinguishing Agency Volunteers from Natural and Community Supports
Suggested Distribution:	Providers Quality Improvement Staff Medicaid Service Coordinators (MSCs) and Supervisors Care Coordination Organizations and Care Managers Regional Office Front Door Staff Central Office Leadership Team
Contact:	JoAnn Lamphere, Dr. PH Deputy Commissioner Division of Person-Centered Supports
Attachments:	

Related ADMs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority	Records Retention
None	None	14 NYCRR 633.99 14 NYCRR 633.7 14 NYCRR 633.8 14 NYCRR 633.22 14 NYCRR 633.24	None	Not applicable

Purpose:

The purpose of this ADM is to clarify the difference between agency formal “volunteers” vs. people who provide natural or community support assistance to people with Intellectual and Developmental Disabilities (I/DD) in the context of community life. These distinctions are important for defining the circumstances under which background checks and/or mandatory training(s) would be required. The following definitions are used in this document:

- a) Natural Supports – family members and friends who have long lasting relationships with a person.
- b) Community Supports - people in the community who have developed a supportive relationship with a person based on mutual interests and regular contact over time.

Natural and/or community supports are based on personal relationships that are developed over time. People that provide these supports are not required to undergo background checks or participate in the New York State Office for People With Developmental Disabilities’ (OPWDD) mandatory trainings.

- c) Agency Volunteers – people who engage in a formal relationship with a provider agency to support a person or persons in various activities under the direction of that agency.

Agency volunteers are defined in regulations and work under the supervision of a provider agency, and as such are required to undergo background checks and participate in OPWDD’s mandatory trainings.

This document addresses, in more detail, these support types and any regulatory obligations associated with each.

Background:

OPWDD is committed to supporting individuals in the community, and in the most integrated settings possible, to facilitate outcomes and a quality of life most important to each individual. OPWDD’s Person-Centered Regulations and the Centers for Medicare and Medicaid Services (CMS) Federal Home and Community Based Settings standards align with these goals. As services become more customized and individuals with I/DD enjoy increased participation in community activities and social events, it is important to understand the different nature of those relationships (agency volunteer v. community/natural support) and the responsibilities (i.e. who requires criminal background checks/fingerprinting, etc.) that relate to each grouping.

Successful participation in community settings can often be achieved using resources that extend beyond agency-managed supports and services. However, providers frequently struggle with what parties are available to facilitate community participation; their roles and responsibilities; and when and how they can be used to increase community participation opportunities for people with I/DD.

The provider agency, throughout the person-centered planning process, should identify areas of interest and the supports needed for an individual’s safe community involvement.

Additionally, the planning process must ensure that the supports in place are consistent with governing laws and regulations.

Through a person-centered planning process, agencies should develop strategies for effective supports that reduce risks in community settings while maximizing and enriching community integration. The goal of safeguard planning is not to eliminate all risk, but to find options that will keep the person safe as they manage the challenges and associated risks involved in community participation. The agency should also work with the individual, family members and circle of support in:

- a) Determining an individual's desired level of community involvement; what supports may be needed; and how to meet those needs;
- b) Explaining the pertinent risks and responsibilities to individuals and their supporting persons to make informed decisions related to health, safety, and needed supports while in the community;
- c) Finger printing, mandatory training, mandatory background checks for agency volunteers; and,
- d) Providing information and education to natural and community supports, not required to have background checks and agency training.

Defining Natural and Community Supports:

Natural Supports occur when people build relationships that are based on mutual interests and compatibility as part of community living. Typical examples of Natural Supports include family members, co-workers, and community members. Through these natural and supportive relationships, individuals are empowered to develop and pursue their goals and interests.

Natural Supports are NOT paid supports.

Examples of Natural Supports include:

- a) **Family**: Parents, siblings, aunts, uncles and other family members, including those established through marriage, can be an invaluable resource when it comes to meeting an individual's needs in the community. Strong family relationships often help establish other relationships that continue for the individual throughout his or her lifetime. These relationships often play an active role in helping individuals plan for needed services and supports on an ongoing basis.
- b) **Legal Guardians**: Legal guardians are those who have the legal right and responsibility to care for an individual's person and property and to make decisions on behalf of the person for whom they have guardianship. A legal guardian may have or develop a personal relationship with the individual. The relationship on legal matters may or may not have a bearing on his/her personal relationship with an individual. However, the amount of time they spend with a person may develop into a natural supportive role in the life of the individual.
- c) **Fictive Kin**: "Fictive Kin" is a term used to describe people who are not related by birth or marriage but have a significant emotional and social connection with an individual. These persons often referred to affectionately as godparents, uncles or aunts, [not by marriage or blood], etc., have fostered devoted and supportive relationships and are

often willing to give of their time to ensure that their loved one is supported and accepted in the community.

- d) **Friends:** Friendships that have developed over time, through mutual feelings of affection and common interest, are often considered as natural supports. These relationships are nurtured through time and are vital to an individual's feelings of caring and belonging.

People who support individuals receiving OPWDD services as Natural Supports only ARE NOT required to undergo background checks (which includes fingerprinting), and ARE NOT required to attend OPWDD mandatory trainings.

An individual and his or her natural support person(s) may decide that, as their relationship grows, they need to work with the individual's service provider to obtain additional education and training so the natural support person(s) can provide a higher level of support to the individual in the community. All shared information/training should become a part of the individual's Person-Centered Service Plan/Life Plan.

The following is an example of a natural support relationship:

JOHN AND THE BARBER SHOP

John has lived in an OPWDD certified IRA for 15 years. He has been advocating for himself to meet some of his personal goals, which include community participation. John has been going to Bob's Straight Edge Barber Shop every Saturday morning at 10 am for the past ten years. Bob's Straight Edge Barber Shop is in Small Town, NY, which is about 10 minutes from John's residence. John does not need staff supports while at the barber shop, so staff drop him off for his appointment and pick him up when he is finished. Bob, who is the owner, has known John since he was a little boy coming to the barber shop with his father. John refers to Bob as "Uncle Bob".

John enjoys his weekly appointment at Bob's Straight Edge Barber Shop. He enjoys his conversations with Uncle Bob while waiting his turn to get a haircut. They talk mostly about baseball, as this is a topic in which they both share an interest. In fact, Bob coached a local little league ball team that John played on when he was young.

One Saturday, Uncle Bob invites John to join his barbershop's weekly softball team. He tells John that he'd be willing to pick him up and take him to and from the baseball games. John is excited by this invitation. When John's support staff picks him up from his hair appointment, he expresses his desire to join his Uncle Bob's softball team. John's support staff is excited for him and tells him "let's see how we can make this happen for you."

John and his staff talk to the IRA manager who indicates that the IRA can probably get John transportation for games, but John states that he doesn't need staff supports to participate in the games and that he really wants to go with "Uncle Bob.". The IRA manager meets with Bob during John's next Saturday appointment. Bob reiterates his willingness to transport John to and from game events. John and his support team agree that Bob, as John's "uncle" (as fictive kin), can provide this support, allowing John to participate on the barbershop's weekly softball team.

Community Supports are provided by people who individuals with I/DD may see, with various degrees of frequency; who may become familiar with their routines; and are willing to assist the person based on this connection. Some examples of people who could be considered Community Supports include:

- a. Co-workers;
- b. Neighbors/Casual Acquaintances; and,
- c. Community Merchants and Service Personnel.

Community Supports are like Natural Supports as they evolve in an unsolicited manner. These are relationships that are often strengthened through community connections that develop based on common interests. They frequently include mutual components of respect, care, and concern. Examples of activities where individuals may develop community connections include:

- a) Members of Houses of Worship: People of shared faith practicing their religious/spiritual beliefs. Houses of worship are places where individuals with developmental disabilities can build connections and foster community participation.
- b) Civic Groups: People with commonality of interest come together to share ideas and collaborate on efforts designed to improve life and/or break down barriers in their community. These groups can promote camaraderie within the community.
- c) Social Clubs, and Community Service Organizations: Groups, with or without a civic component, that gather to enjoy the company of others with similar interests (i.e. Elks, Knights of Columbus, Advocacy Groups, Habitat for Humanity, etc.). Based on common interest, social clubs can connect individuals to their community.
- d) Sports/Activity Groups: People come together for recreation and fun (e.g. playing/watching sports, crafting, gardening, video-gaming, etc.). Individuals who share these interests can meet people and build friendships.

Like Natural Supports, Community Supports are naturally occurring, evolving relationships that develop over time and through consistent interaction. They involve no legal or contractual obligations, and are informal and uncompensated.

Community members who may assist an individual during community interactions ARE NOT required to undergo background checks (which includes fingerprinting), and ARE NOT required to participate in OPWDD mandatory trainings.

If the individual and the community member have come to a stage in their relationship where they both agree the community member should receive education and training to provide a higher level of support to the individual during their time together, the individual should contact his or her service provider for assistance.

The following is an example of a community support:

JANIS AND THE BEACH PROJECT

Janis enjoys going to the ocean front beach in her hometown. After a recent storm, the beach was covered with a lot of debris. The local paper printed a story about a group of people who were looking for volunteers to help clean up the debris so that people could enjoy the beach again.

Janis wanted to volunteer for this civic project. Her support staff made arrangements so Janis could join other volunteers during the day for the entire week cleaning the debris off the beach. During her time working with other volunteers, Janis learned about other projects the group intended to do to beautify their hometown.

Janis became a member of the community group. Janis wanted to be independent in working with the volunteers and she agreed that her support staff could meet with group members who were willing to support Janis during volunteer activities.

After some planning and education, Janis could work with the community group without paid staff support.

Through her work with this group Janis has developed many friends, who include her in social outings.

Defining Volunteers – Roles and Regulations

A volunteer is defined as “...someone who applies to and is accepted by an agency to participate, under the supervision of agency staff or management, in activities with or for the benefit of the persons receiving services operated, certified, authorized, approved or funded through contract by OPWDD, and for which he or she receives no salary or remuneration.” (14 NYCRR 633.99(dc)).

Volunteers have a formal relationship with an OPWDD provider agency that is responsible for the provision of supports and services to individuals. **These volunteers ARE required to have background checks** (including fingerprinting) prior to working with a person receiving services. Additionally, under this definition, **volunteers are also required to participate in specific mandatory OPWDD trainings** offered by the Agency or through the State-Wide Learning Management System (SLMS). (See 14 NYCRR 624 and 633.7, 633.8, 633.22 (d) (2) (i) and (iii).) SLMS will record any trainings the volunteer takes through this system. Provider agencies should also keep records of any additional trainings they provide volunteers as well.

Parties who support OPWDD and/or provider agencies for one-time events (e.g. Special Olympics events, Agency Community Fairs, etc.) are **NOT** considered volunteers under OPWDD’s definition. They do not have “regular and substantial contact” with individuals; nor do they have “custodial” or supervisory responsibilities for the individual which is fundamental to the definition of “volunteer.” Based on these criteria, they are **NOT** subject to background checks or OPWDD training requirements. (14 NYCRR 633.22 (d)(2)).

Provider agencies are responsible for supervision of and guidance to their volunteers. Volunteers are responsible to follow the leadership of their sponsored agency in the following manner:

- a) Assisting individuals with daily living needs, as defined by the agency;
- b) Supporting individuals to be engaged in community activities as approved by and directed by the agency; and
- c) Participating in agency required trainings and other trainings recommended by the agency that may be specific to the needs of the individual he or she supports.

The following is an example of an agency volunteer supporting Samantha’s desired outcomes:

SAMANTHA AND HER FAITH CONNECTIONS

Samantha is a 42-year-old woman who has lived at home her entire life with her parents. Together they attended, on a regular basis, her community synagogue. However, as her parents became older they were no longer able to provide Samantha with the level of care she requires. She uses a powered wheelchair for mobility, and needs assistance in transitioning. Samantha moved into a certified residential setting that was equipped to meet her medical and physical needs. However, in her new home it became clear that the agency did not always have enough staff to take Samantha to the weekly Shabbat services, a tradition which Samantha held very dear. Samantha’s circle of support reached out to the residential agency to inquire about enlisting the support of the agency’s volunteer program to accompany and assist Samantha in participating in the Shabbat services at her synagogue. The agency agreed to provide her with an agency volunteer.

The provider agency asked Nancy, who has volunteered in its day program for the past five years, to work specifically with Samantha to meet her goals for participating in her faith community.

Nancy has already had the background checks and required training consistent with OPWDD requirements. Now she will undergo additional training to be able to support Samantha’s specific needs and choices in her community. She will have direct supervision from agency support staff who are responsible for the implementation of Samantha’s plan of support.

Developing Safeguards through Person-Centered Planning:

It is important to make reasoned and clinically sound judgements when determining if a person in a natural or community support relationship or a volunteer can effectively provide support for an individual with I/DD. There are situations where natural supports, community supports or a traditional agency volunteer may not be appropriate to support an individual receiving services.

Critical review during the person-centered planning process is imperative. Even though an individual may want to be accompanied by a volunteer or natural support when in the community, that level of support may not be sufficient to assure safety. When considering supports for individuals participating in community activities, providers, individuals and their circle must carefully consider the appropriate supports needed to ensure safety for all concerned.

The following is an example of strategies to determine appropriate supports:

LEONARD IS GOING PLACES

Leonard likes to travel. He enjoys riding in cars and taking trains into the city. Leonard sometimes has outbursts when things don't go his way and these can cause harm to him or others around him. Because of his behavioral challenges Leonard is accompanied by staff and utilizes agency transportation into the city for community activities.

Leonard has a desire to travel independently with his friends. In recognition of this desire, Leonard meets with his team to discuss how to support his desire to enjoy this activity while at the same time ensuring his safety and the safety of those around him. Utilizing a person-centered planning process, Leonard and his team will work together to develop a plan that also addresses his behaviors and minimizes risk. This plan will gradually allow him to travel more independently, via his favorite mode of transportation and ultimately will foster his ability to participate in community activities within the city without the constant need of staff supports.

Although Leonard would like to travel with less structured supports, his team must base his level of supports on his level of need. Leonard does not have consistent natural supports and it would not be appropriate to expect a community support to address needs that are significantly beyond the scope of their responsibility. However, an experienced volunteer who is specifically trained by an OPWDD provider agency to address Leonard's specific behavioral challenges may be appropriate. Person-centered planning activities should consider the best travel approaches for Leonard that will reduce or manage the risk of behavioral challenges during such activities.

Conclusion:

OPWDD is committed to supporting people we serve to have the most meaningful experiences they desire for community life. As more people with I/DD choose to live, work and participate within their communities, we need to explore the various resources available to help them become integral members of their communities and to achieve personal outcomes they consider to be important.

Each circumstance and situation is unique to each person's specific needs, Factors described in this document are designed to define the various roles of people who can provide: natural supports; community supports; and the more formal role of agency volunteers supporting people under a provider agency's auspices. These distinctions will help facilitate informed choices and decision-making related to the provision of additional supports to increase quality of life and individualized outcomes for people supported.

Natural supports, community supports and agency volunteers can all be important resources for people with I/DD that should be explored and appropriately utilized as part of the person-centered planning process and development of a Life Plan. Although these additional supports should never take the place of appropriate provider managed staff, they can and should be used to broaden and enhance an individual's ability to participate in various community experiences. Promoting the use of natural supports, community supports and

agency volunteers will help ensure peoples' successful participation and membership within their communities.

If you have any further questions, please contact either

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Billing Standards/ Restrictions on Billable Service Time: Not Applicable

Service Documentation: Not applicable

Other Documentation Requirements: Not applicable

Records Retention: Not applicable