



**ADMINISTRATIVE DIRECTIVE**

<b>Transmittal:</b>	20-ADM-07R
<b>To:</b>	Executive Directors of Voluntary Provider Agencies Executive Directors of Care Coordination Organizations Developmental Disabilities State Operations Offices (DDSOO) Directors Developmental Disabilities Regional Offices (DDRO) Directors
<b>Issuing OPWDD Office:</b>	Division of Service Delivery-State Operations & Statewide Services
<b>Date:</b>	<b><u>Original Issuance: December 30, 2020; REVISED July 9, 2021</u></b>
<b>Subject:</b>	The Development or Modification of Policies and Procedures Pertaining to Levels of Supervision (LOS) for Individuals Receiving Services
<b>Suggested Distribution:</b>	Service Delivery Administrators and Management Staff Care Managers and Care Management Supervisors Clinical Staff and Clinical Staff Supervisors Quality Improvement Staff Direct Support Staff and Direct Support Supervisors
<b>Contact:</b>	Assistant Deputy Commissioner, Statewide Services, or designee at: <a href="mailto:opwdd.behavioral.intervention.regulation@opwdd.ny.gov">opwdd.behavioral.intervention.regulation@opwdd.ny.gov</a>
<b>Attachments:</b>	Attachment 1: Summary of Levels of Supervision



**Office for People With  
Developmental Disabilities**

<b>Related ADMs/INFs</b>	<b>Releases Cancelled</b>	<b>Regulatory Authority</b>	<b>MHL &amp; Other Statutory Authority</b>	<b>Records Retention</b>
OPWDD ADM #2019-09R		14 NYCRR §624 14 NYCRR §633.16	NYS MHL 33.13(a)	
OPWDD ADM #2017-01		14 NYCRR §633.4 14 NYCRR §686.16	NYS MHL § 13.01, 13.07, 16.00, and 16.01	
OPWDD ADM #2017-02R		14 NYCRR §690.6 14 NYCRR §636 42 CFR §483.440 and 483.450		

## PURPOSE

To improve the quality of care provided to individuals who receive services and supports authorized by the Office for People With Developmental Disabilities (OPWDD), this Administrative Memorandum (ADM) establishes consistent terminology, definitions and factors to consider when planning, documenting, and delivering the necessary Levels of Supervision (LOS) to individuals receiving services. Agency policy and procedure pertaining to LOS shall incorporate the person-centered levels of supervision defined herein.

This ADM is not intended to prescribe the circumstances requiring a defined LOS. Determinations are made by the treatment/program planning team and customized to meet the needs of the individual in their respective environment. This guidance does not supersede or replace any regulations or laws pertaining to health, safety, behavioral intervention, or clinical services.

This ADM was originally issued on December 30, 2020. **It has now been revised to clarify the compliance with this ADM and is included under “TIMELINE FOR TRANSITIONING TO THE USE OF STANDARD AND CONSISTENT TERMINOLOGY” section on p 8, extending the time frame for compliance to 24 months from the original date of this ADM for both care providers and CCOs. These revisions appear in bold and are underlined**

## BACKGROUND

OPWDD requires that service providers deliver quality care, protecting each individual's rights and ensuring their health, safety, and emotional, spiritual and physical well-being. OPWDD requires the use of comprehensive, person-centered assessment and planning processes to help identify the services, supports, and environments that an individual requires. For the purpose of this ADM, assessors are defined as staff who conduct the approved statewide functional assessment tools.

All individuals have the opportunity to participate in an assessment to capture their unique health and support needs. OPWDD designates approved comprehensive assessment tools for the evaluation of children and adults. Determination of an individual's LOS is a critical component of the comprehensive assessment tools and will be used to guide care planning (i.e., Person-Centered Planning) across disciplines (e.g., Life Plan, Nursing Plan of Care, Behavior Support Plan, Mealtime guidelines, etc.). This ADM standardizes the language to be used in care planning and approved assessment tools to assure consistency with intent and meaning.

## APPLICABILITY

The requirement for use of standardized LOS terminology in care planning processes is applicable to all individuals receiving OPWDD authorized Care Coordination and/or receiving services in the following OPWDD certified settings:

- all residential facilities certified or operated by OPWDD, including family care homes;
- all facilities certified by OPWDD, except:
  - respite programs and services;

- clinic treatment facilities; and
- diagnostic and research clinics.
- day habilitation services (whether or not provided in a certified facility); and
- prevocational services (whether or not provided in a certified facility).

Please note that the applicability and requirements of a defined level of supervision may extend to locations and situations not specifically identified above, as determined by the individual's program planning team.

There are situations when levels of supervision may also be influenced by entities external to service providers, such as directives included in court orders. The use of the LOS terms in the person-centered planning and assessment process and the resultant service plans, must be guided by policies and procedures developed and implemented by the agency.

Level of Supervision refers to the minimum level of need an individual has for the staff support that is required to assure health and safety in an identified activity and environment. It is expected that OPWDD certified providers and their staff work with individuals and their circle of support to determine the minimum LOS needed as it relates to the individual's respective activities and environments using a Least Restrictive Setting (LRS) approach. A LOS is never used as a characterization of an individual's general need for support. An individual may require identification of more than one minimum LOS in their care plan/s to address their support needs across different activities and environments or settings. LOS is applied to OPWDD certified settings and when OPWDD certified providers or their staff are providing supervision in community settings.

This ADM must be distributed to staff who develop or implement person-centered plans of care (e.g., treatment plans, habilitation plans, staff action plans) and may include but are not limited to:

- Psychologists and Behavioral Intervention Specialists (BIS)
- Nurses and other health care professionals
- Program administrators and managers
- Certified Residential programs including: Intermediate Care Facilities (ICF's), Individualized Residential Alternatives (IRA's) and Family Care Programs
- Certified Day Services such as Day Treatment or Day Habilitation Programs
- Family Care Coordinators and Liaisons
- Direct support professionals
- Quality Improvement/Quality Assurance
- Treatment Team Leaders (TTL's)
- Assessors
- Care Managers

## **DEFINITION**

**Level of Supervision:** Level of Supervision (LOS) means the level of supervision defined in the individual's treatment plan(s), and is specific to the setting (home, work,

community) or activity (eating, bathing, etc.). This LOS ADM defines levels as One-to-One (1:1), Line-of-Sight (within visual field of staff), Range of Scan, Periodic Checks, Independent with Staff Present, and Independent (Independent indicates no need for a specific LOS). The LOS will be specific to each individual's needs and may change based on the setting or circumstances.

## **DISCUSSION**

These guidelines establish uniform terms and standard terminology that will be used in plans to describe an individual's specific LOS needs. Standardized terminology will direct staff who deliver services authorized by OPWDD so that they understand and correctly implement the LOS necessary to meet the individual's needs regardless of the setting or program within which they are working.

### **Types of Supervision or Support - Standard Terminology**

Adopting standard terminology for LOS allows for consistency and efficiency in the way staff implement supports or supervision. Such practices can reduce the potential for incidents (including but not limited to neglect), increase safety, and assure quality care. The assignment of a level of supervision by a service provider must always be based upon the **minimal** level of supervision needed to assure health and safety, as determined by members of the person-centered planning team.

Many individuals receiving services can have their needs met without the need for a defined LOS. This ADM does not apply to situations where the care needs of an individual do not need to be specifically supported with a defined LOS (i.e. Independent). Programs may have structures, supports, and staffing such that specifically articulated supervision levels are not needed. In addition, some individuals receiving services may have the ability to appropriately seek out staff or additional supports when needed. In cases, however, where a treatment team requires a specific level of supervision, the terminology and guidance in this document must be followed.

Any assignment of a LOS, greater than Independent, must be carefully considered with respect to individual health and safety needs, preferences, rights, and the environmental situation that the individual is exposed to. The assignment of defined levels of supervision greater than Independent will result in the need to determine the effect of that level of supervision on the ability of staff to adequately supervise other individuals receiving services as well as the staff's ability to perform all functions associated with their employment.

Attachment 1, *Summary of Levels of Supervision (LOS)*, defines LOS needs and levels of independence, which fall on a continuum ranging from One-to-One Supervision to Independent with Staff Support. Assignment of a LOS is based on the minimum level of supervision needed to best support the individual and to ensure their safety relative to their environment and activity. Attachment 1 informs providers of the standard terminology to use when identifying an individual's LOS in the person-centered care plans. These standard LOS are:

- One-to-One (1:1) Supervision or another similar higher ratio of staff assigned to one individual (e.g., 2:1 Supervision or 3:1 Supervision)
- Line of Sight Supervision

- Range of Scan Supervision
- Periodic Checks
- Independent with Staff Present
- Independent

Once providers identify the minimum specified level of support and supervision needs of an individual, it is critical to ensure staff:

- Can easily understand the individual's supervision needs,
- Know their specific responsibilities when providing the LOS,
- Have sufficient resources and administrative support to implement the LOS in the context of all their other responsibilities,
- Have the training and skills necessary to implement the LOS, and
- Understand how to properly transfer supervision duties.

### **Factors to Consider When Describing an Individual's Specific Minimum Level of Support and/or Supervision Needs**

Below are the essential elements to be considered when determining an individual's specific minimum LOS needs in individualized plans of care (A), and how staff should be trained and directed to implement plans' minimum LOS (B). These areas must be addressed in the appropriate person-centered plan(s) of care established by the provider (e.g., Comprehensive Functional Assessment (CFA) and respective active treatment goals, Life Plan, Behavior Support Plan (BSP), Staff Action Plan, etc.). The LOS terminology should be consistent across the care plans to ensure individuals receive the LOS and supports necessary to meet their needs. The plan should contain the following information to guide staff when they deliver the LOS.

#### **A. LOS Considerations Specific to the Individual's Care Plan:**

- **Staff assigned to the individual:**

Some programs offer standard staff ratios as part of the program milieu (e.g., 1 staff person to 4 individuals). Sometimes, an individual has a plan that specifies a LOS such as one-to-one support. In such cases, the program should identify the number of staff that must be assigned supervision responsibilities for the individual in the context of the supervision needs for the other individuals receiving services, when applicable. For example, if there are 4 individuals living in a residence and the minimum staff ratio during daytime hours has been determined to be 2 staff to 4 individuals, and if one of those individuals is assigned a full time 1:1 staff, the residence would need to have a minimum of three staff on during waking hours in order to maintain the minimum staffing ratio for the remaining three individuals. If a specified LOS is used, there must be a clear assignment of one or more staff on each shift that are responsible for providing that level of supervision.

- **The proximity of staff to the individual:**

When a specified LOS is an identified need for an individual, plans must define where the staff will be physically located in relation to the individual when providing the LOS. Proximity ranges may vary depending on the specific reason for the LOS but in all cases should allow for staff to respond in such a manner that any negative consequences related to the reason for the LOS are eliminated or minimized. For

example, depending on the particular need, plans may specify that: the staff must remain within three feet of the individual; staff must position themselves between the individual and any possible target; that the staff must be in the same room, etc. Any exceptions to proximity needs must also be specified. For example, a person who has a 1:1 staff assignment related to harmful behaviors towards others may require a close staff proximity when in the presence of potential targets, but may be permitted to be alone in their room or bathroom with the staff person providing the 1:1 supervision waiting outside and ready to initiate closer proximity when the person leaves those areas. For someone with a 1:1 related to self-harming behaviors, however, the close proximity may also need to be maintained in the bedroom or bathroom. These distinctions must be described in the person's plan(s).

- **Response time required for staff action:**

The circumstances that necessitate the degree of supervision and the action staff must take when providing the supervision inform the response time required for staff action. For example, staff providing supervision to assist an individual with walking (circumstance) must know the level of support required to prevent falls (within arm's length, hand on gait belt, or as specified in the plan) and have the skills necessary to offer the support to prevent falls. Response time required for staff action ranges from a maximum level of supervision identified as immediate response to as-needed relative to situation and environment.

- **Tasks and assignments regarding supervision of more than one individual:**

Plans must identify whether staff can supervise more than one individual if a LOS is being used. Please note that this is not an option for 1:1 staffing where, by definition, the staff providing 1:1 coverage may not have any other responsibilities for supervising other individuals or engaging in tasks or assignments not directly related to the activities of the person they are supervising. For line of sight or range of scan supervision, staff may be able to meet the supervision needs of more than one individual, performing duties for other individuals while ensuring the necessary LOS for the individual as specified in their person-centered plans. Such additional allowable supervision responsibilities must be specified in the plan.

- **Tasks and assignments other than supervision:**

As stated above, a 1:1 staff assignment means that the staff may only be involved in tasks or assignments that involve the person they are supervising. For line of sight or range of scan supervision, the allowable tasks and assignments for staff while providing supervision per each individual's plan must be based on each individual's needs and be specified in the plan. For instance, staff providing range of scan supervision may be able to offer the necessary supervision while folding laundry or cooking dinner.

## **B. LOS Considerations Specific to Care Planning and Staff Direction:**

- **Environment and activity-specific LOS considerations:**

Identify the circumstances or settings where a specific LOS must be provided. An individual's supervision needs may change depending on the presenting circumstances, task, activity, or setting. For example, supervision procedures may be different when the individual is home versus when they are in the community shopping.

- **Location of LOS guidance:**

Identify in which plan(s) of care the LOS can be found (e.g., Behavior Support Plan, Staff Action Plan, Safeguard plan, Risk Management Plan, etc.). Staff must be trained on the plan(s) containing LOS, to ensure understanding and consistent LOS. Staff must know where to obtain a copy of the plan(s) and have them readily accessible for reference.

- **Transfer of supervision responsibilities:**

Procedures must be established to ensure LOS responsibilities are properly transferred when necessary, and staff must be trained on such procedures. For example, the agency/program must establish a procedure for ensuring “one-to-one” supervision when the assigned staff needs to take a break.

### **Staff Training and Implementation of the Level of Supervision**

LOS and staffing patterns are established using a planned process based on the specific needs of the individual(s) being supported and the service environment. Staff delivering services must be trained on the specific LOS and on how to implement the supervision requirements within the context of all the individuals under their care. It is recommended that agencies partner with their staff training and/or personnel office to determine how this topic and the essential elements of this ADM are to be incorporated into staff training with specific sensitivity to real-time changes in LOS designations based on changes in behavioral or medical status, as well as in response to immediate protections associated with Reportable Incidents.

### **COMMUNICATION**

Identified needs, including supervision, must be communicated and documented through a person-centered plan that is easy for staff to understand and implement. Communication is critical to identifying an individual’s LOS needs and for ensuring the provision of proper supports.

### **DOCUMENTATION REQUIREMENTS**

Documentation pertaining to LOS, including plans or daily notes providing evidence that the supports and supervision were delivered, shall be maintained in accordance with 14 NYCRR 633.10(a)(2) and applicable documentation and record retention requirements.

If a plan of care specifies a defined LOS for an individual and it is determined the minimum LOS above “Independent” was not provided, it must be reported in accordance with 14 NYCRR Part 624, including paragraph 624.3(b)(8) and section 624.5).

### **TIMELINE FOR TRANSITIONING TO THE USE OF STANDARD AND CONSISTENT TERMINOLOGY**

Within 42 **24** months of the **original** issuance **date** of this ADM (**12/30/2020**), treatment plans and service documentation by care providers shall be revised to incorporate the terminology established in this ADM. Within **24** months of the **original** issuance **date** of this ADM (**12/30/2020**), the changes in terminology developed in treatment plans and service documentation will be incorporated into Life Plans. Staff must receive training on the revised plans and established terminology.



**COMPANION DOCUMENT**

Attachment 1 titled *Summary of Levels of Supervision* document defines each LOS as well as the five factors to be considered when establishing/defining the individual's LOS in a plan of care.