



Office of Children and Family Services

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Administrative Directive

Transmittal:	15-OCFS-ADM-10
To:	Local District Commissioners
Issuing Division/Office:	Office of Strategic Planning and Policy Development Division of Child Care Services Division of Child Welfare and Community Services
Date:	August 18, 2015
Subject:	Sharing of Investigation Information by Child Protective Services and the Office of Children and Family Services, Division of Child Care Services
Suggested Distribution:	Directors of Social Services Child Protective Services Supervisors New York City Department of Health and Mental Hygiene Child Care Resource and Referral Agencies
Contact Person(s):	Questions concerning this release should be directed to the applicable OCFS Division of Child Care Services Regional Office: Albany Regional Office: Tracey Turner; (518) 402-3038; Tracey.Turner@ocfs.ny.gov Buffalo Regional Office: Patricia Harper; (716) 847-3828; Patricia.Harper@ocfs.ny.gov Long Island Regional Office: Robin Beller; 631-240-2560; Robin.Beller@ocfs.ny.gov New York City Regional Office: Patricia Lewis; (212) 383-1415; Patricia.Lewis@ocfs.ny.gov Rochester Regional Office: Terry Chylinski; (585) 238-8531; Terry.Chylinski@ocfs.ny.gov Syracuse Regional Office: Dianne McLaughlin; (315) 423-1202; Dianne.McLaughlin@ocfs.ny.gov Spring Valley Regional Office: Frances Franco-Montero; (845) 708-2400 Frances.Franco-Montero@ocfs.ny.gov
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
99-OCFS-LCM-25		18 NYCRR §§ 414.10(a), 416.10(a), 417.10(a), 418-1.10(a) and 418-2.10(a)	SSL §390 SSL §§ 424(6) and 427-a SSL §422(4)(A)		

I. Purpose

The purpose of this Administrative Directive (ADM) is to provide direction to local social services districts (local districts) and agencies that license or register child day care providers regarding their responsibilities for sharing information with each other. This policy pertains to all child protective service (CPS) reports, whether coded as day care, familial, or foster care, containing allegations that a child care provider or any other person in a home where child day care is provided has abused or maltreated a child.

This release provides technical and substantive updates to a previously issued policy, 99-OCFS-LCM-25, Sharing of Information on Child Protective Investigations and Day Care Investigations. Among these updates is that CPS staff must notify the Office of Children and Family Services (OCFS) Division of Child Care Services (DCCS) whenever they discover that a familial or foster care report alleges the abuse or maltreatment of a child who lives in a home where child day care services are provided, even if the alleged abuse or maltreatment was not directly associated with the provision of child day care.

II. Background

Every local social services district CPS in New York State is charged with commencing either an investigation or a family assessment response (FAR) within 24 hours for every report it receives alleging child abuse or maltreatment.¹

DCCS is responsible for all activities related to the regulation of child day care programs in New York State, other than day care centers in New York City. These programs are: family day care homes, group family day care homes, child day care centers outside New York City, and school-age child care programs, as well as any child day care program that is not licensed or registered, but is required to be by law. DCCS regulatory responsibilities include investigating complaints alleging that there have been violations of child day care statutes and regulations².

The types of complaints that DCCS is responsible for investigating include those alleging that a child in receipt of child day care has been abused or maltreated while in care. Child day care regulations prohibit the abuse or maltreatment of a child in a child day care program by a provider, director, employee, volunteer, or other person. Regulations for home-based child day care programs *also* prohibit the abuse or maltreatment of any child who *resides* in a family or group family day care home, including the child day care provider's children or foster children³, regardless of whether the abuse or maltreatment occurred during the provision of child day care.

In many places in the state, OCFS contracts with other entities to perform the activities necessary to regulate child care programs. In some counties, OCFS contracts with a Child Care Resource and Referral (CCR&R) program or with the local social services district. In New York City (NYC), OCFS contracts with the NYC Department of Health and Mental Hygiene (DOHMH) to conduct child day care licensing, registration and monitoring activities, including the investigation of complaints, for every type of child day

¹ New York State Social Services Law (SSL) §§ 424(6) and 427-a

² See specifically SSL § 390(3)(a) & (c)(i)

³ 18 NYCRR §§ 416.10(a) and 417.10(a)

care program except day care centers. In NYC, all responsibility for child day care centers, called group day care centers in NYC, rests with DOHMH, and not with OCFS⁴. This policy statement applies only to CPS reports related to child care programs for which OCFS is responsible (i.e., all child day care programs in the state except child day care centers in NYC).

When the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) receives a report at intake alleging that a child was abused or maltreated at a child day care program, it codes the report as "day care" and assigns secondary jurisdiction to OCFS. Specifically, for "day care" reports outside of NYC, secondary jurisdiction is assigned to "Upstate, Day Care". For "day care" reports in NYC (except those related to day care centers), secondary jurisdiction is assigned to the OCFS "New York City Regional Office" (where staff includes DCCS regional staff). As a result of these assignments, DCCS receives electronic notifications ("noisy alerts") for "day care" CPS reports and DCCS is able to access all case information entered into the CONNECTIONS database for these reports. **DCCS uses this access only to read information in CONNECTIONS and does not enter or alter information in the record.**

When a DCCS regional office outside of NYC is notified about a new CPS report, it either addresses the report itself or notifies its contracted agent to address the report. DCCS or its contracted agent initiates a complaint regarding the child day care program in the child day care system of record to reflect the CPS report. In NYC, the Administration for Children's Services Office of Special Investigations (OSI), which investigates all CPS "day care" reports, notifies the DOHMH complaint unit, which enters a child day care complaint.

Allegations that child abuse or maltreatment occurred in the child day care program are then concurrently and collaboratively investigated by the local district CPS and by DCCS or its agent.

Reports that are not associated at intake with the provision of child day care are coded by the SCR in CONNECTIONS as either "familial" or "foster care." The SCR assigns secondary jurisdiction to DCCS for these reports *if* the person calling in the report informs the SCR at intake that there is a child day care program in the home. Otherwise, DCCS is not assigned secondary jurisdiction and is not notified of these reports. However, sometimes CPS investigators find, upon commencement of a CPS investigation of a "familial" or "foster care" report that there is a child day care connection that was not identified at SCR intake.

III. Program Implications

It is required that CPS investigators inform DCCS whenever there is a **report where there is a child day care program conducted in the home, including reports coded as familial or foster care**, in order for DCCS to be able to fulfill its regulatory obligations. The exception to this requirement is when a CPS report is assigned to the family assessment response (FAR) track. While state law permits sharing FAR reports

⁴SSL § 390(13)

with OCFS staff or their designees⁵, doing so without the explicit consent of the subject family is contradictory to the spirit of FAR practice in New York State.

Coordination and collaboration between CPS, DCCS and/or its agent when there is a child day care program involved can also benefit the CPS. Staff from DCCS regional offices or their agents may be able to provide information and insight about the child day care program's circumstances that are relevant to a CPS investigation because their work responsibilities include visiting the homes of child day care providers and observing the interactions of the provider and staff of the program with the children receiving child day care.

The rationale for cooperative efforts is clear for reports coded as "day care"; however, there are three circumstances in which DCCS also has regulatory responsibilities regarding reports that are coded "familial" or "foster care":

1. When the alleged abuse or maltreatment is found to be associated with the provision of child day care services in a duly licensed or registered child day care program (i.e., the report should actually be coded "day care");
2. When there are allegations of the abuse or maltreatment of any child, including a foster child, who lives in a home where child day care services are provided; and
3. When a child day care program that is required to be licensed or registered but which has not been appropriately licensed or registered is operating in the home.

In order for DCCS or its agents to perform their statutorily mandated work properly, there must be communication and cooperation between the CPS and the DCCS regional office and/or the DCCS agent whenever a CPS receives a report from the SCR alleging that there was child abuse or maltreatment **in a child day care program or in a home where child day care is provided**. There are varying reasons for DCCS's interest in CPS reports that are coded as "day care" or that fall into one of the three categories of "familial" or "foster care" reports listed immediately above. The reasons for that interest dictate the level of information sharing and collaboration that is required for each category of report.

Reasons Necessitating CPS/Child Day Care Collaborations for Investigations

1. Reports coded as "Day Care" by the SCR

These are reports in which one or more persons are alleged to have abused or maltreated a child while the child was receiving child day care in a licensed or registered family day care home, group family day care home, school-age child care program, or day care center. When notified by the SCR via an electronic notification that there is a new "day care" report, DCCS or its agent enters a complaint report in the child day care system of record and DCCS or its agent immediately commences a complaint investigation of the child day care program, which is conducted concurrently with the CPS investigation.

Any delays in the timely and thorough investigation of the child day care complaint could compromise the safety and well-being of children in the child day care setting. In some situations, DCCS or its agent may need to immediately create a safety plan

⁵ See SSL § 427-a(5)(d)(i)

that the child day care program must follow while the complaint is investigated, and DCCS or its agent must then monitor adherence to the safety plan. In some instances, DCCS may suspend the child day care program's license or registration until the investigation is resolved, as a precaution to keep children safe. Once the CPS and/or its own investigations are resolved, DCCS may determine that it should develop, extend, or revise a safety plan, or take steps to close the program completely in order to keep children safe. Furthermore, DCCS cannot renew the child day care license or registration until all complaints associated with the program are resolved.

To be able to assess the safety of children in the child day care program and resolve its own complaint, DCCS or its agent will need details of the CPS case such as, but not limited to: specific allegations in the report from the SCR; specific evidence, such as statements, results of interviews, pictures, or videos; case notes; and the determination as to whether the subject is indicated. The investigator from DCCS or its agent is able to obtain some, but perhaps not all, of this information from CONNECTIONS, and is limited by the speed with which the CPS investigator enters the information. The time lapse that sometimes occurs before the CPS caseworker enters information into CONNECTIONS could potentially result in children in the child day care program remaining in an unsafe environment. Direct communication between a CPS investigator and the DCCS-designated investigator can facilitate the timely and thorough sharing of information.

2. Reports coded as “familial” or “foster care,” but that should be coded as “day care”

Sometimes a report is coded as “familial” or “foster care,” but a CPS investigator discovers during the investigation that the alleged abuse or maltreatment occurred during the provision of child day care services in a licensed or registered child day care program.

DCCS needs to be aware of all such reports for the same reasons as described immediately above - DCCS or its agent must determine if immediate measures are needed to protect children in the child day care program. They must also enter a complaint into the DCCS system of record and investigate the alleged violation of child day care regulations.

If a report that should be coded “day care” is not so coded, it may sometimes create difficulties for the CPS investigator in addressing the report; for example, if the subject is not a parent of any of the children named in the report.

3. Reports coded “familial” or “foster care” where there is a licensed or registered child day care program in the home

Whenever someone applies to operate a home-based child day care program, all persons who live in the home where child day care will be provided or who will work or volunteer in the child day care program must be screened through the SCR for any previous CPS indications. If anyone was indicated, DCCS or its agents assess whether the presence of that person is likely to pose a danger to children in the child day care program. If there is an open report for any such person, it must be resolved before the application to provide child day care can be approved.

For the same reasons, the protection of children in a home-based child day care program requires that DCCS be informed of any pending allegations about a child day care provider or anyone residing in the home where child day care is provided, even where the child or children allegedly abused or maltreated are not part of the child day care program. When informed of a new CPS “familial” report, DCCS or its agent enters a complaint into the child care system of record associated with the report. An investigator from DSSC or its agent visits the day care home to determine if an interim safety plan is needed to protect children in the child day care program while the CPS report is being investigated, and DCCS may possibly suspend the program’s license or registration, if it seems that the children in the child day care program are in imminent danger. If the CPS report results in an indication, DCCS will want to determine whether the provider may continue to provide child day care services in the home or whether a safety plan is needed to keep children in the child day care program safe.

DCCS and/or its agent do not participate in “familial” or “foster care” CPS investigations. However, DCCS needs to be informed of any such reports whenever there is a day care program in the home. DCCS also needs to know if there are concerns about the safety or well-being of day care children, and it needs to know the determination of the report.

4. Reports where unlicensed/unregistered child day care in the home may require a license or registration

The law requires OCFS, when it finds that a child day care provider is providing child day care services without a license or registration that is required by law, to cause that person to comply with the law⁶. DCCS or its agent advises the person to come into compliance with the law and sometimes issues a cease and desist order. Staff from DCCS or its agent then monitors compliance. These actions are necessary so that all child day care programs operate with appropriate oversight, in a manner that complies with the law and protects the safety and well-being of children.

Therefore, if a CPS worker who is investigating a report suspects that a child day care program requires a license or registration to operate and the program is operating without the required license or registration, that CPS worker must inform DCCS or its agent so that DCCS or its agent can determine whether the child day care program is operating legally.

New York law requires a child day care program to be licensed or registered if it provides child day care for three or more children (who are not relatives of the child day care provider) away from the home of the children for more than three hours per day but less than 24 hours per day. Programs operating illegally will be directed to stop operating illegally, but may then submit an application to operate in accordance with the law.

In addition to being necessary for OCFS to fulfill its statutory and regulatory obligations, coordination and collaboration (including conducting joint interviews when possible) between CPS, DCCS and DCCS’s agents on CPS reports related to a child day care program or a child day care home can provide the following additional benefits.

⁶ SSL §390(3)(d)

- By collaborating on their investigations and sharing information, the investigators for both CPS and DCCS or its agent may obtain more information than either could independently. This can enable them to make better informed decisions about what is needed to keep children safe.
- Reducing the number of interviews to which children are subjected can minimize the potential trauma experienced by children who are interviewed as part of the investigation. Joint interviews may also reduce the trauma and inconvenience experienced by the subject and any other adults who are interviewed regarding the report.
- Conducting joint interviews reduces the likelihood that the questioning of either a child or an adult involved with the case by one investigator will “contaminate” an interview conducted by a second investigator.

IV. Required Action

Requirements and Protocols for CPS/DCCS Cooperation on CPS Reports

1. Reports coded as “Day Care” by the SCR

- Because of the above considerations, **CPS staff must *collaborate* with OCFS when they receive a report coded as “Day Care” from the SCR.** There must be an exchange of information between CPS staff and child day care investigators from DCCS and/or its agent both during the CPS investigation and at its conclusion.
- Upon receiving a new “day care” report, CPS staff should first check to be sure that DCCS has been given secondary jurisdiction for the report. If DCCS has *not* been assigned as secondary, CPS must call the DCCS Regional Office associated with the report location (see the Contact list on p.1) to notify them that there has been a report. Without this contact, DCCS would remain unaware of the report. CPS must also assign secondary jurisdiction to DCCS.
- The CPS worker should contact the appropriate DCCS regional office as soon as possible in order to begin the process of coordinating the investigations by CPS and DCCS or its agent. If the CPS receives the report during a time when DCCS staff is not available, such as in the evening or on a weekend or holiday, the CPS must initiate its investigation within 24 hours of receipt of the report, as required, and contact DCCS as soon as possible thereafter.
- If the report will be addressed by a multi-disciplinary team (MDT), the CPS worker must inform DCCS of this and, if feasible, facilitate the participation of staff from DCCS or its agent.
- To the extent possible, when they will be interviewing the same persons, staff from CPS and DCCS or its agent should jointly conduct interviews for their investigations. DCCS or its agent and CPS will maintain their own case notes and will share them when requested.
- CPS staff should keep staff from DCCS or its agent up to date with important findings and developments in the case, specifically regarding any concerns related to the provision of child day care that are identified during the investigation. The DCCS-designated staff should do the same with the CPS investigator and, as mandated reporters, must report any suspicions of new

instances of child abuse or maltreatment. CPS information may be shared either verbally or in writing.

- CPS staff must provide information requested by DCCS or its agent in a timely manner. This may include, but is not limited to: copies of CPS report(s), caseworker notes, and any other documentation or information available, even if it is not in writing. Information may be transmitted verbally, electronically or by mail, as requested by DCCS.
- CPS staff must not provide DCCS with information about previous unfounded reports or reports that were tracked to family assessment response (FAR), except for any information from a previous FAR or unfounded report that has been incorporated into the record of the current CPS report to which DCCS has access.
- Upon request, child day care investigators from DCCS or its agent must share with CPS any relevant information that they have about the child day care program, including both historical information and any new evidence gained through their investigation of the program or other interactions.

2. Reports coded as “familial” or “foster care,” but that should be coded as “day care”

- Whenever a CPS finds that a report classified as “familial” or “foster care” should have been classified as “day care” because the alleged abuse or maltreatment occurred as part of the provision of child day care in a licensed or registered child day care program, **the CPS must contact the appropriate DCCS regional office as soon as possible** to inform it that there is a report involving a child day care program and the CPS must provide DCCS with the information to locate the report. The CPS must assign secondary jurisdiction to DCCS.
- If the report is coded “foster care,” its code should be changed to “day care.”
- If the report is coded “familial,” the CPS should call the SCR to make a new report, informing it of the existing report and clarifying that the report involves a child day care program. Calling in a second report facilitates tracking the report for DCCS. The CPS may close the original case by unbounding it, if appropriate, withdraw it (if CPS has not yet commenced an investigation), or investigate both reports as companion reports.
- All protocols in the section above, for reports classified as “Day Care,” apply.

3. Reports coded “familial” or “foster care” where there is a licensed or registered child day care program in the home

- **Except as provided below, CPS staff must *inform* DCCS or its agent within one business day about any report classified as “familial” or “foster care” whenever they determine, before or during the investigation, that a child alleged to have been abused or maltreated resides in a home where licensed or registered child day care is provided, even if the alleged abuse or maltreatment is not directly related to the child day care program.** CPS should assign DCCS secondary jurisdiction for the report.
- **If the report is assigned to FAR, the caseworker must not inform DCCS or its agent about the report.** Reports assigned to FAR are subject to different confidentiality restrictions than reports assigned to the investigative track. If at any time the CPS worker develops concerns about safety and risk to the extent

that he or she closes the FAR case and calls in a new report to be addressed with an investigation, then the new report will be treated the same as other “familial” reports related to a child day care program.

- DCCS and/or its agent does not participate in investigations of CPS reports classified as “familial” or “foster care,” but enters a complaint into the child day care system of record to reflect the open CPS report, and determines whether interim safety measures to protect children in the child day care program are necessary.
- CPS staff must inform DCCS or its agent when a determination has been made regarding the report. If the report is unfounded, the child day care complaint will be unsubstantiated. If there is an indication for the abuse or maltreatment of a child residing in the child day care home, OCFS will assess whether the circumstances resulting in the indication should impact the provision of child day care in that home.
- The CPS worker should inform DCCS or its agent about any concerns CPS may have about the provision of child day care in the home. A CPS worker who suspects that a child day care program is not in compliance with child day care regulations may make a complaint to DCCS or its agent, either by phone, email, or letter. The complaint can be made through a complaint line or to any DCCS staff person.
- Staff from DCCS or its agent will provide CPS with requested relevant information regarding the day care program or provider.

4. Reports where unlicensed/unregistered child day care in the home may require a license or registration

- CPS staff must inform DCCS or its agent whenever a CPS worker finds that child day care is being provided in a home where the worker is investigating, even if there does not appear to be a licensed or registered child day care program. This will provide DCCS the opportunity to determine whether the program is licensed or registered and, if it is not, to determine whether the child care provided requires a license or registration. DCCS can then take action to cause a provider who does not have a required license or registration to comply with the law.
- DCCS or its agent will inform CPS whether the program is licensed or registered. If it is not, and does not need to be, DCCS does not need to know the determination of the report.

V. Systems Implications

None

VI. Additional Information

Section 422(4)(A) of the Social Services Law requires that OCFS and local departments of social services keep CPS reports confidential, including information obtained, reports written or photographs taken concerning CPS reports that are in their possession. OCFS includes the Statewide Central Register of Child Abuse and Maltreatment, the Division of Child Care Services, and OCFS central and regional offices. Also, registration and

enrollment subcontractors are agents of OCFS for various activities related to day care. All registration and enrollment contractors and subcontractors are obligated by their contracts with OCFS to adhere to these confidentiality provisions, and they are responsible for maintaining any records and information concerning a CPS report and investigation in a confidential manner.

VII. Effective Date

This policy is in effect as of the date it is issued.

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