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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 90 LCM-127

Date: August 15, 1990

Division: Commissioner's
Office

TO: Local District Commissioners

SUBJECT: Filed Regulation Part 428

ATTACHMENTS: Attachment listed below
(Attachment available on-line)

The following changes to the Official Regulations of the State Department of Social Services have been filed for adoption with the Secretary of State.

18 NYCRR Part 428 relating to child protective services risk assessment.

Filed as an emergency rule - 3/20/90 - effective 3/20/90.

Refiled as an emergency rule - 8/14/90 - effective 8/14/90.

The final rule - Filed: 8/14/90 - Effective: 8/29/90.

Michael J. McNaughton
Director, Local District
Policy Communications

STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(5)(f) and 409-b of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby amend Section 428.3(b), add Sections 432.1(w) and 432.2(d), and reletter Sections 432.2(d) and (e) as (e) and (f) of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective when the Notice of Adoption is published in the New York State Register.

Dated: August 14, 1990

Signed: _____

Commissioner

This is to certify that this is the original of an order of the State Department of Social Services, made on _____ amending Section 428.3(b), adding Sections 432.1(w) and 432.2(d), and relettering Sections 432.2(d) and (e) as (e) and (f) of the Official Regulations of the State Department of Social Services, being Title 18 NYCRR, the express terms of which were published in the New York State Register on April 4, 1990.

Dated: August 14, 1990

Signed: _____

Commissioner

Paragraph 2 of section 428.3(b) is amended to read as follows:

(2) Variations to the plan amendment prescribed by the department, based on local conditions, must be submitted to and approved by the department. All other documentation required in this Part shall must be recorded on the forms or in the format specified in this Part[.], except that the department may approve a substitute to such forms or format if the proposed substitute contains a validated, structured risk assessment format, and such format meets the statutory requirements of section 409-f of the Social Services Law.

A new subdivision (w) is added to section 432.1 to read as follows:

(w) Risk assessment means an evaluation of factors that pertain to and influence a subject of the report and other persons named in the report in order to predict the likelihood that a child(ren) named in the report will be abused or maltreated in the future.

Subdivisions (d) and (e) of section 432.2 are relettered (e) and (f) and a new subdivision (d) is added to read as follows:

(d) Use of risk assessment factors. (1) Risk assessment must be employed by the child protective service or the appropriate society for the prevention of cruelty to children

when key case decisions are made concerning a child named in a child abuse or maltreatment report, including but not limited to, how intensive an investigation should be conducted of a child abuse or maltreatment report; whether services which would provide safety and protection to the children, including but not limited to, foster care placement, must be immediately provided; whether to keep an indicated case open for the provision of services after the determination of whether the report is indicated or unfounded is made; which goals that are intended to change or control a subject's behavior should be developed for a family; whether there is a need to reassess a family's progress toward reducing the risk to children in the family; and whether an open child protective case may appropriately be closed.

(i) Supervisors must, at case conferences with staff and when reviewing case records, examine the caseworkers' use of risk assessment for arriving at key case decisions.

(ii) When a child protective service is the primary service provider, case records must contain documentation that key decisions were reached through consideration of the factors described in paragraph (2) of this subdivision. This subparagraph does not apply to a determination that a report is to be indicated or unfounded.

(iii) When a child protective service is monitoring the provision of child protective services, it is responsible for ensuring that the factors described in paragraph (2) of this subdivision are considered when making key case decisions.

(iv) No specific form is required for assessing risk or documenting that a risk assessment has been employed, so long as the requirements in subparagraph (ii) of this paragraph are complied with.

(2) Factors that must be considered when making key decisions concerning a child named in a child abuse or maltreatment report include, but are not limited to:

(i) Child characteristics:

(a) age;

(b) physical and mental health;

(c) special needs of the child;

(d) capacity for self protection;

(e) response to a caretaker or parent (e.g., fearful, protective, hostile); and

(f) child's behavior and development.

(ii) Caretaker and parent characteristics:

(a) history of substance abuse or other criminal behavior;

(b) mental and physical health;

(c) capacity for and quality of parenting;

(d) perceived and actual level of stress;

(e) perception and expectations of child;

(f) parents' recognition and acknowledgment of issues placing the child at risk; and

(g) parents' history of being victims of abuse or neglect.

(iii) Family characteristics:

(a) single parent household;

(b) family violence; and

(c) degree and quality of interaction and communication among family members.

(iv) Environmental factors:

(a) housing conditions, including conditions related to sanitation or overcrowding;

(b) safety of the neighborhood;

(c) informal and formal neighborhood support;

(d) role of extended family in providing support; and

(e) the degree of financial stress on the subject's family.

(v) Maltreatment characteristics:

(a) type;

(b) severity;

(c) frequency;

(d) recency;

(e) circumstances which influenced the maltreatment; and

(f) history of previous family violence.

(vi) Alleged subject's access to child:

(a) amount of time subject has access to child; and

(b) ability and willingness of other persons in the household to protect the child.

(vii) Intervention factors:

(a) family's receptivity to intervention; and

(b) family's response to intervention.

(Deleted material [brackets]; new material underlined)