Local Commissioners Memorandum

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<th>Transmittal:</th>
<th>08-OCFS-LCM-02</th>
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<tr>
<td>To:</td>
<td>Local District Commissioners</td>
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<tr>
<td>Issuing Division/Office:</td>
<td>Strategic Planning and Policy Development</td>
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<tr>
<td>Date:</td>
<td>March 27, 2008</td>
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<td>Subject:</td>
<td>Family Assessment Response Application/Plan</td>
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<td>Contact Person(s):</td>
<td>Sheila Poole, Associate Commissioner, Child Welfare and Community Services Regional Operations (518) 474-9465 Jamie Greenberg, Director, Policy Analysis, (518) 473-1327</td>
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<td>Attachment Available Online:</td>
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I. Purpose

The purpose of this Local Commissioners Memorandum is to provide an application (Attachment A) for those local social services districts (LDSSs) wishing to implement a family assessment response (sometimes referred to as differential or alternative response) approach for some of the families reported to the Statewide Central Register of Child Abuse and Maltreatment (SCR).

II. Background

Chapter 452 of the Laws of 2007 (Attachment B) authorized LDSSs, other than in New York City, to apply to the New York State Office of Children and Family Services (OCFS) to use a family assessment and services approach for
a subset of families that are reported to the SCR for child maltreatment. The family assessment approach requires an initial assessment of child safety. If a child is assessed as unsafe, the report may not be handled using a family assessment response. For families that are reported to the SCR where a family assessment response is used, no determination of the SCR report is made. OCFS believes, as do other states that use a family assessment approach, that it is easier to engage families since the approach is likely to be viewed as less threatening by the family; it allows the family to have a larger role in determining what services will benefit their children; and the LDSS is more likely to be viewed by the family as a helping entity in the future should issues arise that create risk to children.

Shortly after Chapter 452 was enacted, OCFS invited all interested LDSSs to participate in a conference call in which the law’s provisions were summarized and questions were solicited and answered (based on information that was known at the time). Subsequent to that conference call, LDSSs were invited to self-select to work with OCFS to help develop the program and IT systems parameters/requirements. Six LDSSs expressed interest, without making a commitment to applying to use the approach, and have helped OCFS develop and move toward operationalizing a family assessment response program. The law does allow an LDSS that is authorized to use a family assessment response considerable flexibility to develop an approach that best matches its county service resources, its staffing, and how many families with which the approach will be used.

III. Program Implications

It is anticipated that there will be (limited) Information Technology (IT) support for Family Assessment Response by November 1, 2008. As a result, that date is considered the first time that an LDSS could begin using the approach. There are many pre-implementation activities that will need to be attended to including, but not limited to, staff training, community preparedness, and service development/refinement/targeting. OCFS is fully committed to supporting LDSSs that choose to implement a Family Assessment Response approach, within the bounds of our resources.
LDSSs interested in beginning in 2008 must submit an application to OCFS by May 15. OCFS will entertain applications from LDSSs that want to begin later than 2008. The provisions of Chapter 452 expire June 1, 2111; however, we are optimistic that the law will be extended or made permanent if the program is assessed to be positive and producing good outcomes.

/s/ Nancy W. Martinez

Issued By:
Name: Nancy W. Martinez
Title: Director
Division/Office: Strategic Planning and Policy Development
Any social services district wishing to implement a Child Protective Services (CPS) differential response (which OCFS shall refer to as family assessment response) program must apply to OCFS to participate by submitting a plan for implementation. Any plan approved will be posted on OCFS’ website within 60 days of such approval, as required by Chapter 452 of the Laws of 2007. The plan must address all the criteria listed below:

a) The factors to be considered by the social services district in determining which reports will be addressed through the family assessment and services track and the size of the population to be the subject of the differential response program;

- Please address:
  - the criteria by which you will assign reports to the family assessment and services track;
  - the anticipated percentage of reports that you are projecting will be handled through the family assessment and services track in the first 12 months of implementation;
  - the particular units and/or workers who will be involved, if it is not initially to be done county-wide
  - any phase-in or rollout plans

b) The assessment process regarding child safety and risk as well as the types of services and interventions to be provided to families included in the family assessment and services track and a description of how the services will be offered;

- Please describe:
  - the assessment process that you will use to assess child safety, risk to children and family strengths and needs.
  - the plan for linking families with those goods and services that address their identified needs, including what services will be provided by county CPS or preventive services staff, what services will be provided by community service providers, and what relationship the county will have with TANF staff in assessing needs and providing services. How, if at all, will family assessment and services interact with other local models of service access including such things as SPOA, CCSI, etc.
c) A description of the process to be followed for planning and monitoring the services provided under the family assessment and services track;

- Please include how the assessments and services provided directly by LDSS as well as those provided by agencies under contract with LDSS and those provided by other community agencies will be developed and monitored for quality and adherence to negotiated principles and expectations.

d) A description of how the principles of family involvement and support consistent with maintaining the safety of the child(ren) will be implemented in the family assessment and services track;

- Please describe:
  o your County’s core practice principles upon which the family assessment response is designed.
  o the approach you will take, and the strategy behind such an approach, to more actively engage and empower families in (i) assessment of their strengths, (ii) assessing their needs, and (iii) in decision-making, while at the same time reassessing child safety, as need be.

e) A description of how the differential response program will enhance the ability of the district to protect children, maintain the safety of children and preserve families;

f) A description of how the district will reduce the involvement of government agencies with families and maintain the safety of children through the use of community resources;

- Please describe:
  o how the district will engage the family without increasing the involvement of government agencies without compromising safety of children
  o how traditional service providers, the family’s support network, and other community resources will provide assistance to families whose reports/cases will be handled by a differential response program.

g) A description of the staff resources proposed to be used in the family assessment and services track, including the proposed staff workloads and qualifications;
• Please include:
  o how you plan to assign or recruit DSS staff to respond to a CPS report through the family assessment response track
  o whether staff will be involved in both the family assessment response track and the traditional CPS investigations
  o an indication of the use of any and all specialized staff/resources that will impact on the implementation of FAM

h) A description of the training that will be provided to district staff regarding the family assessment response program. Additionally, please include a description of training to be provided to any non-district staff to be used in the differential response program. Both descriptions should include, but not be limited to, a description of the training involving maintaining the safety and well-being of children and any cross training planned for family assessment and investigative staff;

i) A description of the community resources that are proposed to be used in the family assessment and services track;

j) A description of any additional funding (beyond the regular child welfare finance mechanisms) that may be utilized to enhance the differential response program;

k) A description of the protocol to be followed for handling cases in the family assessment services track when domestic violence is suspected or confirmed. The protocol must address the need to maintain the safety of the child(ren);

  • If you plan to collaborate with your local domestic violence service provider concerning any aspects of your family assessment and services track, please describe such collaboration.

l) A description of your plan to involve community agencies, schools, Family Court, other key stakeholders in your county or catchment area, and the community as a whole in planning for and implementing a family assessment response;

m) Please indicate your projected timeline for implementation.
Chapter 452 of the Laws of 2007

Section 1. Section 422 of the social services law is amended by adding a new subdivision 5-a to read as follows:

5-a. Upon notification from a local social services district, that a report is part of the family assessment and services track pursuant to subparagraph (i) of paragraph (c) of subdivision four of section four hundred twenty-seven-a of this title, the central register shall forthwith identify the report as an assessment track case and legally seal such report.

§ 2. The social services law is amended by adding a new section 427-a to read as follows:

§ 427-a. Differential response programs for child protection assessments or investigations. 1. Any social services district located outside of a city with a population of more than two million may, upon the authorization of the office of children and family services, establish a program that implements differential responses to reports of child abuse and maltreatment. Such programs would create a family assessment and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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services track as an alternative means of addressing certain matters currently investigated as allegations of child abuse or maltreatment pursuant to this title. Notwithstanding any other provision of law to the contrary, the provisions of this section will apply only to those cases involving allegations of abuse or maltreatment in family settings expressly included in the family assessment and services track of the differential response program, and only in those social services districts authorized by the office of children and family services to implement a differential response program. Such cases shall not be subject to the requirements otherwise applicable to cases reported to the statewide central register of child abuse and maltreatment pursuant to this title, except as set forth in this section.

2. Any social services district interested in implementing a differential response program shall apply to the office of children and family services for permission to participate. The criteria for a social services district to participate will be determined by the office of children and family services after consultation with the office for the prevention of domestic violence, however the social services district's application must include a plan setting forth the following:

(a) in conjunction with any additional requirements imposed by the office of children and family services and the provisions of this subdivision, the factors to be considered by the social services district in determining which cases will be addressed through the family assessment track and the size of the population to be the subject of the differential response program;

(b) the types of services and interventions to be provided to families included in the family assessment and services track and a description of how the services will be offered;

(c) a description of the process to be followed for planning and moni-
toring the services provided under the family assessment and services track; 
(d) a description of how the principles of family involvement and support consistent with maintaining the safety of the child will be implemented in the family assessment and services track; 
(e) a description of how the differential response program will enhance the ability of the district to protect children, maintain the safety of children and preserve families; 
(f) a description of how the district will reduce the involvement of government agencies with families and maintain the safety of children through the use of community resources; 
(g) a description of the staff resources proposed to be used in the family assessment and services track, including the proposed staff workloads and qualifications; 
(h) a description of the training that will be provided to district and any non-district staff to be used in the differential response program including, but not limited to, a description of the training involving maintaining the safety and well-being of children and any staff; 
(i) a description of the community resources that are proposed to be utilized to enhance the differential response program; and 
(j) a description of any additional funding that may be utilized to handling cases where domestic violence is present in order to maintain the safety of the child through the family assessment and services track.
3. The criteria for determining which cases may be placed in the assessment track shall be determined by the local department of social services, in conjunction with the office of children and family services and after consultation with the office for the prevention of domestic violence. Provided, however, that reports including any of the following allegations shall not be included in the assessment track of a differential response program:

(a) reports alleging that the subject committed or allowed to be committed an offense defined in article one hundred thirty of the penal law;

(b) reports alleging that the subject allowed, permitted or encouraged a child to engage in any act described in sections 230.25, 230.30 and 230.32 of the penal law;

(c) reports alleging that the subject committed any of the acts described in section 255.25, 255.26 or 255.27 of the penal law;

(d) reports alleging that the subject allowed a child to engage in acts or conduct described in article two hundred sixty-three of the penal law;

(e) reports alleging that the subject committed assault in the first, second or third degree against a child;

(f) reports alleging that the subject committed or attempted to commit murder or manslaughter in the first or second degree;

(g) reports alleging that the subject abandoned a child pursuant to subdivision five of section three hundred eighty-four-b of this article;

(h) reports alleging that the subject has subjected a child to severe or repeated abuse as those terms are defined in paragraphs (a) and (b) of subdivision eight of section three hundred eighty-four-b of this article; and

(i) reports alleging that the subject has neglected a child so as to substantially endanger the child’s physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect.
4. The following procedures shall be followed for all cases included in the family assessment and services track:

(a) Reports taken at the statewide central register of child abuse and malfatment shall be transmitted to the appropriate local child protective service.

(b) A social services district permitted by the office of children and family services to participate in the implementation of a differential response program shall, consistent with the criteria developed pursuant to subdivision three of this section, identify those reports which are initially eligible to be included in the family assessment and services track.

(c) For those reports which are included in the family assessment and services track, the social services district shall not be subject to the requirements of this title concerning initial investigation of reports of suspected abuse and maltreatment of children, including notification requirements. For reports assigned to the family assessment and services track, the social services district shall be responsible for ensuring that the children are safe in their homes. Such safety check shall be commenced within twenty-four hours of receipt of the report and completed within seven days. Based on the initial safety check, the district shall determine if the report shall continue under the family assessment and services track. This safety check must be documented in the manner specified by the office of children and family services.

Should the children be found to be safe in the home, the social services district shall then identify service needs and family issues, if any, based on the initial safety check, that the report is appropriate to be included in the family assessment and services track, the social services district
shall document the reason for that determination in the initial safety check and inform the statewide central register of child abuse and maltreatment that the report is part of the family assessment and services track and request that the records of the statewide central register of child abuse and maltreatment of such report be classified as an assessment track case and be legally sealed in accordance with the provisions of paragraph (a) of subdivision five of section four hundred twenty-two of this title. Such sealed reports shall be maintained at the statewide central register of child abuse and maltreatment for ten years after the report was made.

(ii) Where the social services district determines, based on the initial safety check, to investigate the report as a report of suspected child abuse or maltreatment, the social services district shall document the reason for that decision in the initial safety check. Where the social services district makes the determination to investigate the report, all of the requirements of this title concerning investigations of reports of suspected child abuse and maltreatment shall apply, including the notification requirements. The report shall no longer be eligible to be included in the family assessment and services track.

(d) Where the social services district has determined that a case is appropriate to be included in the family assessment and services track, the district's activities shall include, at a minimum, the following:

(i) the provision of written notice to each parent, guardian or other person legally responsible for the child or children participating in the family assessment and services track explaining that it is the intent of the social services district to meet the needs of the family without engaging in a traditional child protective services investigation. The notice shall also explain that the workers assisting the family in the family assessment and services track are mandated repor-
ters who are required to report suspected child abuse or maltreatment and that those workers are required to report new information that they receive in their work with the family if that information gives them reasonable cause to suspect that a child in the family is an abused or maltreated child;

(ii) an examination, with the family, of the family's strengths,

(iii) where appropriate, an offer of assistance which shall include case management that is supportive of family stabilization;

(iv) the planning and provision of services responsive to the service needs of the family; and

(v) an on-going joint evaluation and assessment of the family's progress including ongoing, periodic assessments of risk to the child.

(e) After the social services district has received a report of suspected maltreatment and determined that the report is initially eligible to be included in the family assessment and services track, pursuant to paragraph (b) of this subdivision, the activities described in paragraphs (c) and (d) of this subdivision may be performed by the social services district directly or through any other method currently utilized by social services districts to obtain preventive services for children and families. If a community-based agency determines, pursuant to subparagraph (ii) of paragraph (c) of this subdivision, that a report must be investigated as a case of suspected child abuse or maltreatment, the community-based agency shall so inform the social services district, which shall then become responsible for conducting the child protective services investigation in accordance with the requirements of this title.

(f) A report selected for inclusion in the demonstration project shall cease to be eligible for inclusion in the demonstration project if at any time in the course of providing services the district or community-
(i) there is evidence of child abuse, including sexual abuse; or
(ii) the parent or parents refuse to cooperate with the district or community-based agency in developing or implementing a plan to address the family problems or issues and there is evidence of maltreatment of a child.

Where the district finds or is advised by a community-based agency, subsequent to the completion of the initial safety assessment and after the report is legally sealed, that the report is no longer eligible for inclusion in the demonstration project pursuant to paragraph (f) of this subdivision, the district shall contact the statewide central register of child abuse and maltreatment and make a new report of suspected child abuse or maltreatment pursuant to section four hundred thirteen of this title.

Where a report has been included in the family assessment and services track and a subsequent report involving the family is made to the statewide central register of child abuse and maltreatment, and such subsequent report is not eligible for inclusion in the family assessment and services track, the local child protective services, in conducting its investigation, shall work cooperatively with any district or community-based agency staff that are already working with the family to minimize to the extent practicable the chance that existing services being provided to the family will be disrupted and to maximize to the extent practicable the coordination of the existing services being provided to the family with any new services to be provided to the family.

Cases included in the family assessment and services track shall not be subject to the requirements of section four hundred nine-e or four hundred nine-f of this article.

All records created as part of the family assessment and services track shall include, but not be limited to, documentation of the initial
safety check, the examination of the family’s strengths, concerns and needs, all services offered and accepted by the family, the plan for supportive services for the family, all evaluations and assessments of the family’s progress, and all periodic risk assessments.

(c) Records created under the family assessment and services track shall be maintained for ten years after the report initiating the case at the statewide central register was made.

(d) All records created as part of the family assessment and services track shall be confidential and shall be made available only to staff of the office of children and family services and persons designated by the office of children and family services; the social services district responsible for the case; community-based agencies that have contracts with the social services district to carry out activities for the district under the family assessment and services track; and providers of services under the family assessment and services track; and any social services district investigating a subsequent report of abuse or
maltreatment involving the same subject or the same child or children named in the report.

6. Expenditures by a social services district pursuant to this section shall be reimbursable from the annual appropriations available for social services district expenditures for child welfare services which shall include, but not be limited to, preventive services provided pursuant to section four hundred nine-a of this article, child protective services, independent living services and any other appropriation made specifically to support these differential response programs.

Nothing shall preclude a social services district from seeking private funds for support of their differential response programs.

7. The office of children and family services shall post the plan contained in any application approved for implementation of a differential response program on the office of children and family services website within sixty days of such approval.

8. The office of children and family services shall complete a report evaluating the implementation of any differential response programs established pursuant to this section. The report shall assess the effectiveness of the programs in promoting broader community involvement in meeting service needs, expanding and expediting access to appropriate services, improving the cooperation of families, reducing subsequent abuse and maltreatment reports, and promoting child safety. Such report shall also recommend whether or not to continue the provisions of this section and shall be submitted to the governor and the legislature no later than the first day of January, two thousand eleven.

§ 3. This act shall take effect immediately and shall expire June 1, 2011 when upon such date the provisions of this act shall be deemed repealed.