



Andrew M. Cuomo
Governor

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
52 WASHINGTON STREET
RENSSELAER, NY 12144

Gladys Carrión, Esq.
Commissioner

Local Commissioners Memorandum

Transmittal:	12-OCFS-LCM-02
To:	Commissioners of Social Services
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	February 17, 2012
Subject:	Recent Legislation Regarding Family Assessment Response (FAR) and Updated Procedures for FAR Applications
Suggested Distribution:	Directors of Social Services Staff Development Coordinators
Contact Person(s):	Questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: Buffalo Regional Office- Dana Whitcomb (716) 847-3145 Dana.Whitcomb@ocfs.state.ny.us Rochester Regional Office- Karen Buck (585) 238-8201 Karen.Buck@ocfs.state.ny.us Syracuse Regional Office- Dan Comins (315) 423-1200 Dan.Comins@ocfs.state.ny.us Albany Regional Office- Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.state.ny.us Spring Valley Regional Office- Raymond Toomer (845) 708-2499 Raymond.Toomer@ocfs.state.ny.us New York City Regional Office- Patricia Beresford (212) 383-1788 Patricia.Beresford@ocfs.state.ny.us Native American Services- Kim Thomas (716) 847-3123 Kim.Thomas@ocfs.state.ny.us
Attachments:	Attachment A: Family Assessment Response (FAR) Application
Attachments Available Online:	Attachment A: Family Assessment Response (FAR) Application, at: http://ocfs.state.nyenet/cps/FAR (intranet) http://www.ocfs.state.ny.us/main/policies/external (internet) Chapters 45 and 377 of the Laws of 2011 can be accessed on the OCFS intranet at: http://ocfs.state.nyenet/cps/FAR/Enacting%20Legislation ; or at this internet website: http://public.leginfo.state.ny.us/menugetf.cgi

Filing References

Previous Policy Directives	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
08-OCFS-LCM-02 08-OCFS-INF-13			SSL § 427-a SSL § 422 SSL § 426		

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to inform local social services districts (local districts) of recent statutory changes that have made the Family Assessment Response (FAR) Program permanent; expanded eligibility to participate in FAR to all local districts in the state, including New York City; and set forth those situations in which information in FAR case records can be shared, unsealed, or presented in court. This LCM will also present a revised FAR application to be used by local districts that wish to implement FAR.

II. BackgroundPrevious Legislation Authorizing FAR

Chapter 452 of the Laws of 2007 added Section 427-a of the Social Services Law (SSL), which temporarily authorized the establishment of differential response programs in those local districts in New York State that applied to implement such programs and were approved to participate by the Office of Children and Family Services (OCFS). In differential response programs, called FAR programs in New York State, the district employs a family assessment and services approach for a subset of families that are reported to the Statewide Central Register of Child Abuse and Maltreatment (SCR), rather than conducting a traditional child protective investigation of allegations.

Chapter 452 allowed local districts to specify their criteria for determining which cases to address through FAR, but prohibited the inclusion of cases in which reports to the SCR contained specified serious allegations. The legislation gave OCFS the authority to establish criteria for a district to participate in FAR and specified information that must be included in a FAR plan (or application) that each district must present to OCFS. In addition, Chapter 452 specified procedures that every district must follow for cases in the FAR track, exempted FAR cases from section 409-e (family services plan) and section 409-f (uniform case record) requirements of the SSL, and stipulated that FAR-related expenditures be reimbursable from child welfare annual appropriations. Chapter 452 also required OCFS to complete a report by January 1, 2011, evaluating the implementation of the FAR program. The legislation enabling FAR went into effect on August 1, 2007, and contained an expiration date of June 1, 2011.

FAR Implementation

In 2008, OCFS issued two policies addressing the implementation of FAR. The Local Commissioners Memorandum 08-OCFS-LCM-02, *Family Assessment Response*

Application/Plan, described the FAR legislation and provided an application/plan to be used by local districts wishing to apply to implement FAR. An Informational Letter, 08-OCFS-INF-13, *Family Assessment Response Cases*, informed local districts how FAR cases were to be displayed and treated within CONNECTIONS.

Since 2008, 24 local districts have implemented FAR, and several others have either been recently approved to implement FAR or are in the process of applying. Together with local districts and external partners, OCFS has engaged in a process of planning, implementation, learning, and adjusting to improve the quality and consistency of the FAR program. Through this experience, OCFS has identified the need to revise the initial FAR application/plan that was included in 08-OCFS-LCM-02 in order to make the application more straightforward and meaningful for both local districts and OCFS.

Early in 2011, OCFS completed an evaluation of the first six local districts that implemented FAR, finding that the family assessment and services approach resulted in positive outcomes. The study compared families that participated in FAR with those who did not, and found that participation in FAR: 1) increased the satisfaction of families with the local district's response to reports; 2) increased the percentage of families provided or referred to services that address their needs; 3) broadened community involvement in meeting family service needs; 4) led to a decrease in the need for family court involvement and for traditional child welfare services; and 5) resulted in no significant differences compared to investigated control groups regarding the likelihood of having a subsequent report by six months after intake, or by six months after case closure.

2011 FAR Legislation

Recognizing the demonstrated usefulness of a differential response for child protective assessments and investigations, the Legislature enacted Chapter 45 of the Laws of 2011, which became effective as of June 1, 2011. Chapter 45 made the provisions of Chapter 452 of the Laws of 2007 permanent by removing its date of repeal. It also introduced two significant changes to the law: it removed the provision excluding New York City from establishing a differential response program, and it required OCFS to report annually on the FAR program.

The Legislature subsequently also enacted Chapter 377 of the Laws of 2011, effective August 3, 2011, in order to address concerns, mainly regarding confidentiality of FAR records, that were not addressed in the original FAR legislation or in Chapter 45.

III. Program Implications

New Legislation

The enactment of Chapter 45 made the provisions of the FAR legislation of 2007 permanent, thereby permitting social services districts, upon approval by OCFS, to establish programs implementing differential responses to certain reports of child maltreatment. It also expanded the applicability of the provisions to New York City.

Chapter 377 of the Laws of 2011 amended previous FAR legislation in order to address concerns, mainly regarding the confidentiality of FAR records, that were not addressed in the

original FAR legislation or in Chapter 45. Chapter 377 amended Social Services Law Section 427-a as follows:

1. References in the original statute to the “initial safety check” were amended to more correctly refer to the “initial safety assessment.”
2. The law now sets forth the situations in which courts can obtain access to FAR records, which was not addressed in the original statute. With the amendment to the law, courts will have access to FAR records and information in the following situations only:
 - a. While the family is receiving services under the open FAR case: There must be a judicial finding that information in the record is necessary for the determination of an issue before the court. The records shall be made available only pursuant to a court order or judicial subpoena. The subject of the report and all parties to the present proceeding must first be given notice and an opportunity to be heard. The local district may be directed by the court to take steps to protect confidentiality including but not limited to redaction of portions of the record.
 - b. Once a FAR case is closed, the court will have access to the case records in only two circumstances:
 - 1) When there is a subsequent report that is handled as a traditional child protective services (CPS) investigation and CPS brings an Article 10 proceeding, the local district may be required to provide to the court any relevant information from a prior FAR record. The relevant information from the FAR record would then be part of the CPS record for the subsequent report and subject to the confidentiality standards applicable to traditional CPS reports.
 - 2) A subject of a FAR report may introduce into evidence information from a FAR record, in whole or in part, in an Article 10, custody, visitation, or any other proceeding. The court will have access only to that information that the subject of the FAR report introduces; the court does not have the authority to demand any other portions of the FAR record.
3. The amendment clarifies that the subject of a FAR report may access the records of the FAR case.
4. A new Section 427-a(5)(e) has been added to the SSL to provide a general ban on redisclosure of sealed FAR records and specify the circumstances under which sealed FAR records *can* be re-disclosed. These circumstances are only the following:
 - a. OCFS and local districts may disclose aggregate, non-client-identifiable information.
 - b. Local districts, contracted community agencies and other service providers may exchange information necessary for the provision of services in FAR cases.
 - c. CPS may unseal a FAR record when there is a subsequent CPS report if the information in the FAR record is relevant to the subsequent report. Information from the unsealed FAR record that is relevant to the new report may be used both for purposes of investigation and for any Article 10 proceeding concerning the new report. Such information shall be made part of the record of the subsequent CPS report and shall then be subject to the laws and regulations regarding confidentiality that apply to the record for the investigation of the subsequent CPS report.
 - d. Subjects of FAR reports can present FAR records, in whole or in part, at their discretion, in court proceedings. But a court may not order the subject to produce such information, in whole or in part, even where the subject has presented part of the FAR record in court.

5. As of January 1, 2014, OCFS must include in its annual report to the Governor and Legislature information on the racial and ethnic characteristics of persons served both under FAR and under traditional CPS reports.

In addition to the above, previous legislation permitted making information in FAR records or reports available to:

- a. Staff of OCFS and persons designated by OCFS;
- b. Local district staff responsible for the FAR case;
- c. Community-based agencies and service providers responsible for activities or services carried out under FAR; and
- d. Any local district investigating a subsequent CPS report involving the same subject or child named in the FAR report.

Applying to Implement FAR

Local districts wishing to implement a FAR program must submit an application to OCFS for its approval. Local districts should initiate discussions with their regional office liaisons before starting the application process (see contact list on page 1).

OCFS has revised the FAR application/plan previously provided in 08-OCFS-LCM-02. The revised application is more straightforward for local districts to complete, and will also enable OCFS to more accurately identify the local district's strengths and needs for technical assistance. The new application is included as Attachment A to this document.

Based on its experience working with 24 local districts that have implemented FAR in the last four years, OCFS has learned that the FAR approach is most successful and cost effective when local district plans meet certain minimum criteria. When local districts have severely limited the types of report allegations and/or the number of reports they assign to FAR, they have experienced difficulty in maintaining vibrant FAR programs. Also, where caseworkers and, to a lesser extent, CPS units have maintained mixed FAR/traditional CPS caseloads, the FAR program has not been able to thrive. Therefore, OCFS has developed the following minimum standards that are necessary to obtain its approval to implement FAR:

- Local districts must commit to assigning reports containing a broad range of allegations for FAR assessment. Local districts planning to start their implementation of FAR by accepting a small range of allegations followed by incremental increases in the types of reports accepted should describe those plans in their applications.
- Local districts must commit to assigning to the FAR track a substantial percentage (at least 30-40%) of those reports that meet their designated criteria for assignment to FAR. Alternatively, medium or large sized districts may implement FAR to serve one or more geographic communities that have high poverty rates and/or disproportionate minority representation in CPS reports, if FAR is used for a reasonable percentage (at least 15-20%) of all CPS reports in those communities.
- Local districts must assign a sufficient number of caseworkers to handle their projected FAR caseloads and may not plan to routinely assign mixed caseloads of both FAR and Investigation cases to individual caseworkers. Supervisory oversight of mixed units will be accepted only in small districts with two or fewer CPS units.

OCFS is committed to expanding FAR practice as widely as possible in New York State because it believes that a system of differential response to CPS reports increases flexibility to provide appropriate responses to reports that can enhance the safety of children. OCFS staff has and will continue to work closely with local district staff in developing and refining their FAR applications, as well as in implementing and improving their FAR programs. We urge local districts that are not currently using FAR to consider implementing this approach.

Nancy W. Martinez

Issued By:

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development