

## Chapter 3: **Statewide Central Register responsibilities**

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# Chapter 3: Statewide Central Register Responsibilities

The primary purpose of this manual is to provide local departments of social services (LDSSs) with comprehensive guidelines regarding their child protective responsibilities. However, CPS Caseworkers and other LDSS staff may find it helpful to have an overview of the standards and procedures used by the Statewide Central Register of Child Abuse and Maltreatment (SCR).

SCR responsibilities fall into two major categories:

- Receiving and registering reports alleging child abuse and/or maltreatment
- Operating the SCR Service Center

## A. Intake

### 1. Overview

The Child Protective Services Act of 1973 established the SCR as the primary recipient of calls regarding suspected abuse and maltreatment of children in New York State. Trained Child Protective Specialists at the SCR receive calls through the toll-free telephone lines 24 hours a day, 7 days a week, 365 days a year [[Social Services Law \(SSL\) §422\(2\)\(a\)](#)].

Calls to the SCR come through the:

- Mandated Reporter Line (1-800-635-1522)
- Public Line (1-800-342-3720)
- Mandated Reporter Fax Line (1-800-635-1554)<sup>1</sup>
- Hearing Impaired TTY Line (1-800-638-5163)<sup>2</sup>

The SCR is equipped to receive calls from those who are Limited English Proficient (LEP) on either the public or mandated reporter line by use of a telephone language interpretation service.

The SCR strives to answer incoming calls expediently. The Specialist conducts a focused interview with the caller and uses that information to determine if a report of suspected abuse or maltreatment can be registered, or if other action is necessary and appropriate, such as a Law Enforcement Referral (LER). The interview process begins as a dialogue with the caller about his or her concerns for the child. The Specialist obtains as much relevant information as possible, focusing on the basis for the caller's suspicion that the child is being abused or maltreated. The Specialist must also acquire from the caller key demographic information, including information sufficient to locate the child. Using the information obtained during the interview, the Specialist makes an informed decision as to whether the allegations provided by the caller meet the requirements for registering (i.e., accepting) a report of suspected abuse or maltreatment. If the

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<sup>1</sup> Certain entities have prior agreements with the SCR permitting them to submit initial reports by fax. Those who do not have such a prior agreement are not authorized to submit reports by fax.

<sup>2</sup> TTY (text telephone) is a special device that lets people who are deaf, hard of hearing, or speech-impaired use the telephone to communicate, by allowing them to type messages back and forth to one another instead of talking and listening. A TTY is required at both ends of the conversation.

information provided by the caller could reasonably constitute a report of abuse or maltreatment, the SCR is obligated to register a report [SSL §422(2)(a)].

Calls to the SCR are recorded for quality assurance and training purposes. The recording does not affect the caller's right to have his or her identity remain confidential.

### ***Mandated reporters and Form LDSS-2221-A***

Mandated reporters (see **Chapter 2, Reporters**) are required to complete Form LDSS-2221-A, "Report of Suspected Child Abuse or Maltreatment," within 48 hours of making a report and submit it to the CPS in the LDSS where the child named in the report resides. The SCR Specialist will provide a mandated reporter with the correct LDSS address.

Entities that have received prior approval from the SCR to submit reports alleging child abuse or maltreatment by fax must use the LDSS-2221-A form to submit their reports.

Form LDSS 2221-A is available on the OCFS internet at [http://ocfs.ny.gov/main/documents/docs.asp?document\\_type=1&category\\_number=5](http://ocfs.ny.gov/main/documents/docs.asp?document_type=1&category_number=5) and on the OCFS intranet at <http://ocfs.state.nyenet/admin/forms/SCR>

To order a supply of forms, download and complete Form OCFS 4627, "Request for Forms and Publications," from the site above and send it to:

Office of Children and Family Services  
Forms and Publications Unit, Room 134 North  
52 Washington St.  
Rensselaer, NY 12144-2834

If you are unable to access Form LDSS-2221-A on the OCFS website, call the Forms Order Line at 518-473-0971. Leave a detailed message including your name, telephone number, complete address, the form number (i.e., LDSS-2221-A) and the number of forms you are requesting.

## **2. Elements required to register a report**

For the SCR to register a report alleging child abuse or maltreatment, it must receive information that meets the criteria for such a report to be registered [SSL §422(2)(a)]. These criteria are:

- The allegations made by the caller, if true, must constitute child abuse or child maltreatment, as defined in [New York State Social Services Law Section 412\(1\) and \(2\)](#), which incorporate the definitions of "abused child" and "neglected child" in [Family Court Act \(FCA\) Section 1012\(e\) and \(f\)](#); and
- The person alleged to have abused or maltreated a child must be a person who can be a "subject of the report." The term "subject of the report" is defined in [Section 412\(4\)](#) of the SSL and includes the following:
  - The child's parent; or
  - The child's guardian; or

- Any other person legally responsible (PLR) for the child's care. A PLR is defined as: a child's custodian, guardian, any other person responsible for the child's care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child [FCA §1012(g)]; or
- A director or operator of, or an employee or volunteer in, a home operated or supervised by an authorized agency or OCFS (i.e., a foster boarding home); or
- A director, operator, employee, or volunteer in a family day care home, group family day care home, day care center, or school-age child care program; and
- There must be jurisdiction in New York and sufficient demographic information to locate the subject or child so CPS may initiate an investigation. There is jurisdiction when:
  - The alleged incident occurred in New York;
  - The incident occurred outside New York, but the child named in the report is presently in New York and needs protection from abuse/maltreatment.

When all of these elements are present (i.e., the allegations constitute abuse or maltreatment; the person allegedly responsible can be a subject of a report; and there is jurisdiction), the SCR will register a report and immediately transmit the report to the appropriate LDSS CPS for investigation.

### 3. Receiving and registering reports

The specialist registers a new report by entering the information obtained from the caller (allegations, household composition, description of the incident, etc.) into CONNX. When such information is provided, the specialist also enters the caller's name, address, telephone number and alternate contact information so that CPS can contact the source to confirm or clarify the information in the report.

The SCR never requires the caller's contact information as a condition of registering a report. The specialist also explains that the caller's identity will not be revealed to the subject(s) or other persons named in the report, unless the caller consents, in writing, to the disclosure of his/her identity [SSL §422(4)(A)].

Certain individuals, including some professionals with certifications or licenses issued by New York State, are mandated reporters of child abuse and maltreatment [SSL §413(1)(a)] (see **Chapter 2, Reporters**). Mandated reporters are required to submit LDSS Form 2221-A to the CPS of the county where the child resides within 48 hours of the SCR registering the report [SSL §415].

After the specialist enters the report in CONNX, he or she conducts a person search of the CONNX database to determine if any of the people named in the report are known in an open case or a closed CPS investigation. If a match is found, the specialist then relates any known person to their existing person IDs in CONNX. This process informs the LDSS of an individual's CPS history, including both indicated and unfounded reports. The specialist also determines whether a report is classified as Initial, Subsequent, or Duplicate, based on the CONNX history.

If CONNX reveals there is an open CPS investigation, the specialist determines whether the new report should be combined with the open investigation. Combining reports is only allowed when the criteria for a Duplicate report, a Subsequent report, or an Additional Information report have been met (See **Chapter 4, Special Circumstances Report Processing**).

The CONNX system automatically assigns a unique SCR Call ID number to the report, which confirms that the report has been registered. The specialist then assigns jurisdiction and immediately transmits the report electronically via CONNX to the appropriate CPS unit. If there is an existing record, this information accompanies the electronic transmittal of the new report.

All reports are transmitted electronically using the CONNX system unless CONNX isn't available.<sup>3</sup> If the CONNX system is not available, the specialist uses the Business Continuity Application (BCA) to register a report. The BCA is a secure system that can process, fax, and track reports. BCA assigns the report a temporary ID number and then the specialist either faxes or verbally transmits the report to the appropriate LDSS. OCFS maintains agreements with each county to determine who will receive such reports via fax or telephone.

Once CONNX is available, the BCA report is automatically uploaded to CONNX and a specialist proceeds with the search for any previous SCR history of persons named in the report and relates the information found into the corresponding report in CONNX.

## 4. Report construction

The specialist must document the following information in the Narrative section in a clear and concise manner:

- **Who** is the parent, PLR or other subject who allegedly abused/maltreated the child? Who is the child who was harmed or placed at imminent risk of harm?
- **What** happened that caused harm or an imminent risk of harm to the child(ren)? What were the circumstances surrounding the incident(s)? What were the injuries and/or harm to the child or risk of injury or harm?
- **When** did the alleged abuse/maltreatment occur? If past incidents are relevant, the report narrative should contain that information. Any dates or times of past incidents provided by the caller must be included.
- **Where** did the alleged abuse/maltreatment occur?
- **How** did the incident(s) happen and what was the harm or risk of harm to the children?

When the subject is not a parent, the first lines of the narrative should explain why this individual is considered to be legally responsible for the allegedly abused/maltreated child(ren) or why the person is a legitimate subject of a report. (For example, "Subject is mother's boyfriend and lives in the home"; "Subject is the child's foster parent"; or "Subject is a worker at the day care center which the child attends".)

Adults and children in the narrative should be referred to by name. Age should be used as the identifier only when names are unknown (e.g., "5-year-old child").

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<sup>3</sup> "After-Hours Transmission Procedure for Reports of Suspected Child Abuse and Maltreatment Registered by the New York Statewide Central Register of Child Abuse and Maltreatment" ([17-OCFS-LCM-02](#))

The narrative should be written in the third person and should not include any reference to the source of the report. It should not include information that might suggest the identity of the source of the report or reference anyone who provided information that caused the call to be made.

The Miscellaneous Information (Misc. Info) section of the SCR intake report includes information that may not directly relate to the allegations of abuse or maltreatment, but may provide other important information for the CPS caseworker. This section should be used to provide information such as:

- The existence of a Law Enforcement Referral (LER) in addition to the report
- Quotes from persons listed in the report
- Names of people and other pertinent information that may be helpful to the investigation but are not included in the narrative
- Information about LEP needs of the child or family, or the need for language services
- Detailed directions to the home if the exact address is not known
- The address where the child is located, if different from the case address, such as when the child is at another location for protection
- Duplicate Person Identification Numbers, if applicable
- A New York State license plate number, when needed for identification, and any information obtained from an SCR check of the Department of Motor Vehicles database
- Any other information that might be helpful to the CPS worker

### ***Writing an SCR intake report narrative***

- Do not include any information in the narrative that identifies the source of the report.

**INCORRECT:** “Mary stated that her father punched her in the face, causing a laceration.”

**CORRECT:** “The father punched Mary in the face, causing a laceration.”

- When using adjectives in the narrative, provide information to clarify their meaning.

**UNCLEAR:** “The home is dirty.”

**CLEAR:** “There is rotten food all over the floor.”

- Make a note if the source of the report is unable to provide pertinent information.

**EXAMPLE:** “It is unknown whether the mother is aware of the abuse.”

- Spell out all words; don’t use abbreviations.

## 5. Sensitive reports

A report may involve a person or circumstance that creates interest from persons who are authorized to use CONNX but are not involved in the case. In such situations, the confidentiality of the records and the privacy of the persons named within the record can be given additional safe-guards by designating the case record as “sensitive” in CONNX.<sup>4</sup>

The designation of “sensitive” can be applied to a report by the SCR if the specialist is aware that the report meets the criteria. However, CPS may also determine a case meets the criteria for designation as a sensitive case and may so designate the case in CONNX. When a case is designated as sensitive, CONNX automatically limits access to the case.

The SCR or the LDSS should consider designating a case as sensitive when:

- A SCR or LDSS employee is named in the report, OR
- A high-profile person from the community is named in the report, OR
- The report involves a case that has garnered significant media coverage.

If a person named in a sensitive case is employed by CPS or is in a management position within the LDSS, it may be appropriate to work another LDSS to assign the report to a different LDSS CPS unit to maintain the integrity of the investigation and confidentiality of the records. Many LDSSs have developed formal or informal reciprocal agreements with neighboring counties that provide protocols for handling such reports. See **Chapter 4, *Special Circumstances in Report Processing*** for more information on Sensitive Reports.

## 6. Quality assurance

The SCR has a quality assurance procedure to enhance service to callers. If a caller’s information does not meet the legal criteria to register a report of suspected child abuse or maltreatment, a supervisory consultation is always offered to the caller. Supervisors are on site and available 24/7 to assist SCR staff and provide consultation to callers.

## 7. Withdrawal of reports

On occasion, the SCR may register a report in error; that is, the information provided at the time the report was registered did not meet the elements required to register a report of child abuse or maltreatment.

The decision to withdraw a report may be made only by the SCR. Only the SCR may permanently remove a registered report of suspected child abuse or maltreatment from CONNX.

### ***Before accepting the report***

Be sure to review all aspects of the report before accepting the report in CONNX. Once accepted and staged progressed to INV or FAR, a report is usually not withdrawn by the SCR.

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<sup>4</sup> “Statewide Central Register Jurisdictional Assignment of Sensitive Child Protective Services Intake Reports” (17-OCFS-LCM-15).

**a. *Reasons for withdrawal of a report***

A report can be withdrawn by the SCR when registering the report was due to an error by the SCR. That is, at the point of intake, one or more of the following conditions were known by the specialist to exist:

- The reported child is 18 years old or older
- The subject is not a parent, PLR, or otherwise a valid subject of a report
- The information, as reported, did not provide a reasonable cause to suspect abuse or maltreatment as defined in the SSL
- The NYS Child Protective System/SCR does not have jurisdiction

**b. *Procedure for withdrawing or rejecting reports***

Reports can only be withdrawn by the SCR. The LDSS can reject a report if it has not yet been progressed out of the INT stage. When a CPS unit receives a report that it believes to have been registered by the SCR in error, the CPS must reject the Intake. CPS must provide a reason for rejecting the report back to the SCR.

The SCR will evaluate the report/intake and the basis for the LDSS's rejection. The SCR could either agree with the LDSS and withdraw the report or disagree and reassign it to the LDSS. When the SCR reassigns the report to the LDSS, the assigned LDSS must commence an investigation or Family Assessment Response (FAR).

If a report has stage progressed to INV or FAR before it is determined that there was an error at the intake stage, a CPS worker must contact the SCR and speak to the Monitor to determine if there is any action available to correct the issue. The SCR staff member will explain the additional actions that are required of CPS prior to withdrawal. For example, if the case is merged to another case, the potential loss of progress notes will need to be addressed.

**8. Joint jurisdictional assignment**

Occasionally a child protective report requires intervention from more than one LDSS. Generally, the SCR assigns joint jurisdictional assignment when the subject(s) and the child(ren) alleged to be maltreated or abused are located in more than one LDSS. In these situations, SCR usually assigns two or more LDSSs to jointly address the report and protect the children named in a report.

**Possible case circumstances requiring joint jurisdictional assignment include:**

- A child(ren) alleged to be abused or maltreated resides in one local social services district (district) and a subject of the report resides in another district.
- The subject(s) and/or reported child(ren) live in one district, but are in another district at the time of the report and would likely need to be interviewed while in that second district (e.g., a child is in a hospital in a different district than his/her residence).
- Multiple children are alleged to be abused or maltreated and the children do not all reside in the same household, and the households in which they reside are in different districts.
- Multiple subjects of the report reside in different districts.
- A different LDSS has care and custody of a child alleged to be abused or maltreated.

When two or more LDSSs must address a report, the SCR must assign primary responsibility to one LDSS and secondary responsibility to any other districts involved. However, whenever there is a joint jurisdictional assignment, it is important to remember that both the primary and secondary CPS units are responsible for the safety and protection of all the children in the report.

The SCR assigns appropriate primary and secondary responsibility as defined by the CONNECTIONS protocol below. This protocol was written to clarify areas of cooperation and administration. It does not signify that one LDSS has less responsibility than another to protect

If you have questions about CONNX design, contact the CONNX liaison in your Regional Office.

the children in the report. On the contrary, this protocol emphasizes the shared responsibility and accountability of each LDSS in multi-district jurisdiction cases.

OCFS establishes policies and protocols regarding the use of CONNX for case management. *Protocols for primary/secondary assignment apply statewide except for the boroughs of New York City.* Because the New York City’s Administration for Children’s Services is a single LDSS, a secondary assignment between boroughs *is not necessary*. The report type could be Subsequent, Duplicate, or Additional Information.

The protocol regarding jurisdictional assignment for Intake reports (i.e., new reports made to the SCR) is as follows:

**No open case found** Primary jurisdictional assignment is based upon the incoming address of the allegedly maltreated or abused (MA/AB) child(ren) named in the report. Secondary assignments are made as required (see **Section 8, Joint jurisdictional assignment**). Report type will be Initial.

**OPN-CPS**  
Open case in INT/INV When an Open case is found involving an OPN-CPS the intake report is merged to the OPN-CPS case and primary responsibility for the report is assigned to the district where the case is open.

Secondary responsibility is assigned to the LDSS of the child’s address, if different from that of the open case. In other words, the child has an address in an open case that is different from the address in the current report. Additional Secondary assignments are made as required.

**OPN-FAR** When an open case is found and the Case List Window shows an **OPN-FAR** case status with a **SVC\*** case type, the report is coded as a Subsequent and merged with the **OPN-SVC\*** case. Primary responsibility is assigned per the reported address of the MA/AB child(ren) and secondary is assigned to all other appropriate LDSSs.

**OPN-SVC/OPN-SVC\***  
Family services case The asterisk (\*) in the term OPN-SVC\* denotes that there is a prior history for the family. When an open case is found

with open FSI and/or FSS stage

involving an OPN-SVC/OPN-SVC\* case (no OPN-CPS Intake, Investigation, or FAR), the intake report is merged with the OPN-SVC/OPN-SVC\* case and primary responsibility for investigation is assigned to the district where the incoming address of the MA/AB children is located.

It is not necessary to assign primary or secondary responsibility to the LDSS with case management responsibility. CONNX automatically sends an alert to all other assigned workers in a case when individuals are related and a new stage is created and merged into an open case. The alert to all assigned workers meets the notification requirement to advise the LDSS of any prior history. The LDSS assigned with case management responsibility can view the investigation/FAR case through a search from the person list. The new LDSS is also thus aware that another LDSS has previously had case management responsibility.

Secondary assignments are made when required (see **Section 8, Joint Jurisdictional assignment**). The report type is *Initial* if the Case List window shows an **OPN-SVC case**, meaning the family has not had prior CPS INT/INV.

- The report type is *Subsequent* if the Case List window shows an **OPN-SVC\*** case, indicating that the family has had prior **CPS INT/INV**. Additional Information is not taken in an OPN-SVC case because CONNX will not allow a merge to OPN case with SVC no asterisk. CONNX will allow a merge to OPN-SVC\* cases.

**OPN-SVC/OPN-SVC\***  
with out-of-state  
address

When an open case is found and the Case List Window shows an **OPN-SVC/OPN-SVC\*** case *and* the incoming address of the family is out of state *and* the SCR has jurisdiction to register a report; because there is either a child in need of protection in New York State or the abuse occurred in New York State the intake report is merged to the **OPN-SVC/OPN-SVC\*** case. Primary responsibility for addressing the case is assigned to the LDSS where the child is in New York State at the time of the report or to the LDSS where the abuse occurred.

**OPN-FAM** assigned to  
the state with SVC\*  
case type

When the Case List Window shows this designation, it means the case is closed. The new report is coded as Initial.

## 9. Changing jurisdictional responsibilities after intake

Jurisdictional assignments can be changed by the LDSS in limited circumstances. When the SCR has made jurisdictional assignments per these guidelines, but the LDSS obtains information after intake that affects the appropriateness of the assignments, or the LDSSs involved otherwise agree to change the assignments, the LDSSs are responsible for reassigning the reports as needed.

### ***Case List window in SCR and CPS***

SCR staff and CPS staff may see *different information on the Case List Window* for OPN-CPS cases.

For SCR staff, the agency/district that appears on the Case List Window for OPN-CPS cases is the LDSS that has responsibility for the most recent open CPS INT/INV stage (the current primary worker) and to which jurisdiction would be assigned if a new report is registered, regardless of the incoming address on the new intake.

For LDSS staff, the agency/district that appears on the Case List Window for OPN-CPS cases is the LDSS of the current primary worker; or, if a Family Services case has been opened, the LDSS of the current Case Manager.

It is also possible that more than one LDSS is involved with an OPN-CPS case. The LDSS with investigative responsibility for an open CPS INT/INV stage *may be different* from the LDSS of the case manager.

If any CPS unit receives a report that does not adhere to these jurisdictional assignment protocols, CPS staff should contact the SCR monitor at 1-800-342-3015.

## B. Responses to calls not qualifying as reports

### 1. Law Enforcement Referrals (LERs)

Whenever the SCR believes that the alleged acts or circumstances against a child described in a telephone call may constitute a crime or an immediate threat to the child's health or safety, but finds that the alleged perpetrator cannot be the subject of a report because he or she is not a parent or other person legally responsible for the child, or another person who can be the subject of a report (e.g., foster parent or day care provider), the SCR must convey the information provided in the telephone call to the appropriate law enforcement agency, district attorney, or other public official empowered to provide necessary aid or assistance [SSL §422(2)(c)].

The SCR does this by making a Law Enforcement Referral (LER) which is transmitted to the New York City Special Victims Unit (if the crime occurred in New York City) or to the New York State Police Information Network (if the crime occurred in counties outside of New York City) for appropriate action.

LERs are not SCR reports of child abuse or maltreatment and are not entered into CONNX. However, the specialist will cross-reference in CONNX to determine if there are any open cases and, if there are any, processes an Additional Information report to be added to the case. If there is no open case, then the SCR does not notify the LDSS about the LER.

### 2. Reports regarding youth in OCFS residential care

Reports of suspected child abuse or neglect occurring in residential programs for children and youth licensed, certified or operated by OCFS and certain other State agencies no longer fall under the jurisdiction of the SCR. These calls are now made to the Justice Center for the Protection of People with Special Needs (Justice Center.) This change occurred on June 30, 2013. Any concern about abuse or neglect of a child in residential care alleged to have occurred before June 30, 2013 will still be called into the SCR. However, concerns based on incidents occurring after that date regarding the alleged abuse or neglect of a child in a residential care facility must be reported to the Vulnerable Persons' Central Register (VPCR), operated by the Justice Center.

The number for the VCPR is 1-855-373-2122. For further information on the VCPR, go to: [www.justicecenter.ny.gov](http://www.justicecenter.ny.gov).

### 3. Information referrals

Along with the multitude of calls the SCR receives each year that provide information sufficient to register a report, there are also many calls that do not provide information that is sufficient to register a report of suspected child abuse or maltreatment. Some of these "non-report" calls are requests for emergency services or referrals, or involve other concerns, which, even if true, do not meet the statutory definitions of abuse or maltreatment.

When they recognize a need that might be met by LDSS services, the SCR's specialists provide callers with contact information for the caller's LDSS offices. Where there is an immediate need, the SCR may offer the caller the emergency after-hours number, which LDSSs must maintain as part of the core Protective Services required by regulations [18 NYCRR 432.2(b)(2)(ii) & (iii); 432.2(e)(3)].

It is only in the most exceptional circumstances, when a caller is unable to take further action beyond calling the SCR, that the SCR staff will take a more active role in facilitating contact with LDSSs.

#### **4. Complaints about teachers**

SCR staff advise callers who have complaints about public school teachers outside of New York City to address their concerns with the New York State Education Department (NYSED) Office of School Personnel Review and Accountability (OSPRA) at 518-473-2998 from 9 a.m. to 12 p.m. and from 1 p.m. to 4 p.m. You also may email the office at [OSPRA@nysed.gov](mailto:OSPRA@nysed.gov). For complaints regarding teachers in New York City Public Schools, SCR staff advise callers to contact the NYC Department of Education, Office of Special Investigations at 718-935-3800. In addition, an allegation of physical abuse or sexual abuse of a child by a teacher must be processed as an LER.

## C. SCR Service Center operations

### 1. Overview

The primary responsibilities of the SCR Service Center are to:

- Conduct CONNX Database Checks for current or prospective employees; prospective foster parents, adoptive parents and day care providers; and persons age 18 or older who reside in the homes of prospective foster parents, adoptive parents and family-based day care providers to determine if the person has a prior history of child abuse or maltreatment in New York State [SSL §424-a].
- Support the administrative appeals process, which includes administrative reviews and fair hearings [SSL §§422(8) and 424-a]. The administrative appeals process allows subjects of indicated reports to have these reports reviewed at a preponderance standard of evidence, which is a higher standard of evidence than “some credible” evidence. This could result in a determination that the report should be unfounded and legally sealed, or that the report is not relevant and reasonably related to employment, licensure, or certification in the child care field.
- Process the routine statutory expungement of indicated reports that have reached ten years after the 18th birthday of the youngest child named in the report [SSL §422(6)].
- Process the routine statutory expungement of unfounded reports and requests from subjects for expungement of unfounded reports [SSL §422(5)(b) & (c)].
- Respond to requests for records and other information in compliance with all applicable statutes, regulations, and policies [e.g., SSL §§422(4)(A); 422(5)(a); 422(7)].

### 2. SCR Database Checks

An SCR Database Check (sometimes referred to as an “SCR clearance” or “SCR screening”) is a search of the SCR database conducted by the SCR to determine if a person is a confirmed subject of an SCR report or reports. The inquiring agency will be notified that a person is known to the SCR as a confirmed subject so long as the individual has at least one substantiated allegation in an indicated report upheld by a preponderance of evidence that has been determined to be relevant and reasonably related to employment, certification or employment; or, the individual has at least one substantiated allegation in an indicated report and the individual has waived their right to an administrative appeal.

Specific agencies and programs are required to submit Database Checks for prospective employees, contractors who will provide goods or services to the agency or program, and employees of such contractors when such agency employees, contractors and employees of contractors have the potential for regular and substantial contact with persons cared for by the agency or program [SSL §424-a(1)(b)(i)]. Those agencies may, but are not required to, request Database Checks on current employees, consultants and volunteers who have the potential for regular and substantial contact with persons cared for by the agency or program [SSL §424-a(1)(b)(i)-(iii)].

Generally, those programs and agencies required to conduct database checks include residential programs licensed, certified, or operated by OCFS, NYSED, the Office of Mental Health (OMH), the Office for People with Developmental Disabilities (OPWDD), and the Office of Alcoholism and Substance Abuse Services (OASAS). It also includes certain adult homes and

summer camps licensed by the Department of Health (DOH) [SSL §424-a(3)]. Database Checks also are performed for operators and staff of child day care programs, applicants to be foster or adoptive parents, and persons age 18 or older who reside in the homes of prospective foster and adoptive parents.

Regulatory and policy guidance offered by OCFS and the other relevant State licensing agencies, as well as Section 424-a of the SSL are the best sources for information on what programs or agencies are subject to the SCR Database Check requirement and under what circumstances.

An online clearance system is used by authorized entities to submit the required information about their staff, applicants, consultants, contractors, and volunteers to the SCR. For those agencies not using the online clearance system, the persons to be screened through the SCR must complete Form LDSS-3370, and the agency submits that form to the SCR.

If a Database Check reveals the applicant is not a confirmed subject in any indicated case, the SCR reports that information to the agency in writing.

If the Database Check reveals that the applicant or employee is a confirmed subject in an indicated report or reports, but those reports have not been upheld at administrative appeal at the preponderance standard, the SCR is required to notify the applicant or employee in writing. The letter providing such notification (commonly referred to as a “Valmonte letter”) informs the applicant that she/he is a subject in an indicated child abuse or maltreatment report(s) and that such information will be shared with the inquiring agency unless he/she takes advantage of the statutory right to appeal the indicated finding [SSL §424-a(1)(e)].

The subject has 90 days from the date he/she received the letter to request an appeal (See **Section C.1, Overview**). If the subject does not respond within this period, the subject has waived his/her right to appeal and the SCR will notify the agency in writing that the applicant is the confirmed subject of one or more indicated reports. If the subject does respond and request administrative appeal within the 90 days, the SCR initiates the administrative appeal process described in the sections below.

Provider agencies must not allow a new employee to have unsupervised contact with a child until the SCR has completed the Database Check and informed the agency of the result.

### 3. Administrative appeal

Subjects of reports can request administrative appeal (appeal to amend an indicated report) under two circumstances.

Requests made pursuant to Section 422 of the SSL may be made immediately after an investigation has concluded and the subject(s) of the report have been informed the report is indicated [SSL §422(8)]. Such request for amendment must be made in writing within 90 days of the date on the letter from the LDSS notifying the subject of the determination to substantiate the allegations and indicate the case. The letter requesting administrative appeal must be signed by the person requesting appeal and contain enough information for the SCR to properly identify who they are and what reports they are referencing. It is most useful if the requestor can include a copy of the indication letter with their letter requesting administrative appeal.

Requests for an amendment of an indicated report may be made pursuant to Section 424-a of the SSL after submission of a request for a database check [SSL §424-a(1)(e)] by responding to the “Valmonte letter” described in **Section C.2, SCR Database Checks**, above. The subject must

make a request for amendment within 90 days of the date on the Valmonte letter from the SCR informing the subject that a Database Check has shown the person to be a subject of an indicated report(s). If a request for an administrative appeal is not received within the 90 days, the subject has waived their right to administrative appeal and the inquiring entity will be informed that the subject is known as a confirmed subject in an indicated case maintained by the SCR.

Written requests for an Administrative Appeal should be sent to:

Office of Children and Family Services  
PO Box 4480  
Albany, New York 12204

If a timely request for administrative appeal is received by the SCR under either [SSL §422](#) or [SSL §424-a](#), the SCR initiates the administrative appeal process that includes an administrative review phase and, potentially, a fair hearing phase.

#### **a. Administrative reviews**

When the SCR receives a request for administrative appeal, the SCR determines whether the request is timely for the report(s) referenced in the letter and, if so, acknowledges receipt of the request by sending an acknowledgement letter to the requestor. The SCR then requests the local case record from the investigating LDSS, which must send all records and reports that support the indication to the SCR as expeditiously as possible but in no event later than 20 days of receiving the request [[SSL §422\(8\)\(a\)\(ii\)](#)]. The 20-day time limit applies whether the Administrative Review is requested pursuant to [SSL §422\(8\)](#) or [§424-a](#). The LDSS does not need to submit the CPS INT or INV stage of the CONNX records, as those records can be obtained by the SCR.<sup>5</sup>

#### ***Requests for appeal***

Each named subject must write a separate letter requesting an appeal. However, individuals who are married and living together can request via one letter. Both spouses should sign that letter to make it clear that the request is valid for both persons.

An attorney can request an appeal on behalf of a client, but must include a signed representation letter or appropriate release allowing the attorney access to the records of the SCR.

Once the SCR receives the records, OCFS begins the Administrative Review process by reviewing any documentation submitted by the LDSS. Because of court decisions,<sup>6</sup> OCFS uses a standard of “preponderance of evidence” to determine whether the allegations regarding the requestor will remain substantiated. If any allegation against the requestor remains substantiated after Administrative Review, OCFS will also determine whether the substantiated act or acts of abuse and/or maltreatment could be relevant and reasonably related to employment, licensure or certification of the subject in the child care field.

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<sup>5</sup> If the LDSS does not submit any documents to the SCR within the 20-day time limit, the Administrative Review will be conducted using only the CPS INT and INV stage of the CONNX records to support the LDSS’s Indicated finding.

<sup>6</sup> Valmonte v Bane, 18 F3d 992 and Lee T.T. v. Dowling, 87 N.Y.2d 699

If Administrative Review determines that the act or acts of abuse or maltreatment are *not* relevant and reasonably related to employment, licensure, or certification in the child care field, the SCR may not reveal the existence of that report in response to a database check request [SSL §§422(8)(a)(ii) & 424-a(1)(e)(iv)]. The report(s) will nevertheless remain indicated and the matter will be referred to the OCFS Bureau of Special Hearings (BSH) for a fair hearing.

Similarly, if the administrative review determines that the act or acts of abuse or maltreatment *are* relevant and reasonably related to employment, licensure or certification in the child care field, this determination is the final agency decision on that issue for any matter appealed under SSL §424-a as part of the database check.

### ***Guidelines for determining relevance***

The following guidelines can be used in determining the relevance of substantiated allegations of abuse or maltreatment are relevant and reasonably related to employment, licensure, or certification in the child care field.

1. The seriousness of the incident cited in the indicated report.
2. The extent of the injury sustained by the child named in the indicated report, or the nature of the injury the child was at risk of sustaining.
3. The detrimental or harmful effect the subject's actions or inactions had on the child/children.
4. The relevant events and circumstances surrounding these actions and inactions as these relate to the indicated report.
5. The age of the subject and the age of the child at the time of the incident of child abuse and maltreatment.
6. The length of time that has elapsed since the most recent incident of child abuse and maltreatment.
7. The number of indicated reports of abuse and maltreatment regarding this subject.
8. Documentation produced by the subject regarding rehabilitation. Rehabilitation would mean:
  - a. No apparent repeat of the act of child abuse and maltreatment;
  - b. Evidence of actions taken by the person to show that he or she is able to deal positively with a situation or problem that gave rise to the previous incident(s) of child abuse and maltreatment; and
  - c. Evidence of success with professional treatment (e.g., counseling or self-help groups) if relevant.
9. Demonstrated success by the subject in a child care field.
10. Did the report(s) involve a child's death, sexual abuse, subdural hematoma, internal injuries, extensive lacerations, bruises, welts, burns, scalding, malnutrition, or failure to thrive? If so, extra weight must be given to the seriousness of such harms.

The matter will be referred to the BSH for a fair hearing on the underlying allegations of abuse or maltreatment. Through the hearing process, the subject may succeed in having the substantiated allegations overturned and the report unfounded and legally sealed. The subject does not have a right to challenge the “relevant and reasonably related” determination under Article 78 of the Civil Practice Law and Rules until the conclusion of the fair hearing process.

### **b. Fair hearings**

Fair hearings are conducted by the BSH before an Administrative Law Judge [18 NYCRR 434.6(a)]. BSH notifies the investigative agency, the subject, and the SCR when a fair hearing has been scheduled [18 NYCRR 434.5].

The local CPS may be represented by a county attorney or by any authorized LDSS employee. The agency may present documentary evidence and call witnesses to testify [18 NYCRR 434.8(d)].

The subject of the report may choose to be represented by an attorney, but legal counsel will not be provided to the subject, even if he/she is indigent. Subjects of indicated reports may represent themselves and have witnesses testify on their behalf [18 NYCRR 434.7, 434.8(d)].

As with the administrative review, the standard of evidence at the hearing is whether the indicated determination is supported by a preponderance of the evidence [18 NYCRR 434.1].

#### ***Hearings pursuant to Section 422(8) of the SSL.***

In a hearing held pursuant to [SSL §422(8)], if the decision finds that one or more indicated reports is supported by a preponderance of the evidence, the hearing will also determine whether the acts or acts of child abuse and/or maltreatment that gave rise to the indicated report(s) could be relevant and reasonably related to employment or licensure in the child care field, unless the Administrative Review already determined that they were not relevant and reasonably related [SSL §422(8)(c)(ii)].

After the hearing decision has been issued, SCR staff will update CONNX and notify the relevant parties accordingly. If the subject wants to appeal the fair hearing decision, he/she must file a proceeding in court under Article 78 of the Civil Practice Law and Rules (CPLR). The appeal can address both the abuse and maltreatment determination and the relevant and reasonably related determination. The subject has a period of four months from receipt of the hearing decision to commence such a proceeding [CPLR §217(1)].

#### ***Hearings pursuant to Section 424-a of the SSL.***

In a hearing held pursuant to [SSL §424(a)], the hearing decision will only address if one or more indicated reports is supported by a preponderance of the evidence. After the hearing decision has been issued, SCR staff will update CONNX and notify the relevant parties accordingly.

If the subject wants to appeal the fair hearing decision, or the administrative review determination on relevant or reasonably related, he/she must file a proceeding in court under Article 78 of the Civil Practice Law and Rules (CPLR). The subject has a period of four months from receipt of the hearing decision to commence such a proceeding [CPLR §217(1)].

**c. LDSS documentation at administrative review or fair hearing.**

To meet the burden of proof at administrative review or fair hearing, LDSS may submit any relevant documentation, including, but not limited to:

**Court records, legal papers, law enforcement documents**

- Relevant legal records or documentation related to the indicated determination must be provided by the LDSS to the SCR or presented at hearing
- Reports, orders of protection, investigation records, charts, diagrams, letters and any other relevant material produced or maintained by police officers, law enforcement agencies, probation officers and related personnel

**Progress notes**

At an administrative review, the CPS INT and INV stage progress notes can be accessed by the SCR and shared with the attorney conducting the administrative review. This is not true at hearing, and CPS must provide any relevant information obtained from the source, interviews and meetings with parents/PLR and children, descriptions of any injuries, parents' level of cooperation, etc.

**Court finding of abuse or neglect**

During an administrative review or fair hearing, CPS must inform OCFS if a Family Court has made a finding of abuse or neglect against the subject of the report that is based upon the same incident or actions that gave rise to the indicated report of abuse or maltreatment under review. This will be considered an irrefutable presumption that the allegations in the report are supported by a fair preponderance of evidence [SSL §422(8)(b)(ii)]. Production of the petition and order will be dispositive for any allegations related to the information in the petition and order [SSL §422(8)(b)(ii)].

**Medical and mental health records**

- Relevant reports, evaluations, letters or other materials from doctors, medical practitioners, hospitals or other clinicians. Originals of radiological images and similar items should not be submitted to the SCR but can be submitted at the hearing.
- Written documentation from medical professionals that explain what was revealed by procedures or case notes where interviews with professionals provide such detail
- Relevant psychological/psychiatric reports, evaluations, examination results or related material from mental health practitioners

**Educational records**

- Relevant reports, attendance records, letters, evaluations, IEP information, academic progress reports or other relevant documents from school administrators

**Photographs**

- Relevant printed or digital photographs taken or obtained during their investigation. Ideally, photographs should be accompanied by a progress note or other documentation describing the contents of the image (e.g., what the image reveals, the person in the photo, time and date, etc.).

**Video or audio files**

- Video or audio taken or obtained during the investigation may be submitted, but OCFS cannot guarantee it has the correct technology to view the videos. Therefore, when LDSS utilizes a video for evidence, such video should be accompanied by a written description of the visual and/or audio information on the video. LDSS should not submit original videos or any other original media.

**4. Early expungement of unfounded reports**

Although unfounded reports are by law normally retained in the SCR database for ten years from the date of the report [SSL §422(5)(b)], a person who is a subject of an unfounded report may submit a request to the SCR asking that the record of the report be expunged (i.e., deleted) from the SCR database prior to the end of the ten-year period for which such reports are normally retained. OCFS, at its discretion and in limited circumstances, may grant such a request. The standard applied for such a request is “clear and convincing evidence” [SSL §422(5)(c)]

The SCR staff processes written requests from individuals or their authorized attorneys for early expungement of unfounded reports (i.e., expungement prior to the end of the ten-year period). To determine whether to grant a request for early expungement, OCFS reviews the legally sealed local CPS record that supports the unfounded determination, as well as any documents or information provided by the subject of the report in support of his/her request for early expungement. The burden of proof, however, rests on the subject of the unfounded report.

OCFS may grant an expungement of an unfounded request under either of the following two circumstances [SSL §422(5)(c)]:

- The subject of the unfounded report presents clear and convincing evidence that affirmatively refutes the allegation of abuse or maltreatment; or
- The subject of the unfounded report shows that the source of the unfounded report was convicted of the crime of having made an intentional false report to the SCR in connection with the unfounded report at issue.

In regard to the first circumstance, the statute provides that the absence of credible evidence supporting the allegation is not sufficient to expunge the record. An example of a situation in which early expungement might be granted could be that a person is alleged to have left her three-year-old child alone and unsupervised in her home, but the person has no children.

In regard to the second circumstance, Penal Law Section 240.50(4) provides that it is a Class A misdemeanor to make an intentional false report to the SCR. Accordingly, a criminal conviction for making an intentional false report shows that the unfounded report that resulted had no legitimate basis.

There is no right to a hearing if the expungement request is denied; the decision to expunge a record is determined by document review only.

## 5. Expungement of reports due to passage of time.

Records of reports of child abuse and maltreatment held by the SCR must be expunged after a period specified by law.

- Unfounded reports are expunged 10 years after receipt of the report [SSL §422(5)(b)].
- FAR reports are expunged 10 years after receipt of the report [SSL §427-a(5)(c)].
- Indicated reports are expunged 10 years after the 18th birthday of the youngest child named in the report [SSL §422(6)].

CONNEX expunges such records automatically several times a year. When a report is scheduled to be expunged, the SCR notifies each local CPS that it must destroy any of its own records of the case. See this CONNX tip sheet for more information:

<http://ocfs.state.nyenet/connect/jobaides/Tip%20sheets/Records%20Retention%2010-14-15.pdf>

## 6. Requests for information

All documents and records maintained by the SCR related to CPS reports are strictly confidential [SSL §422(4)(A)]. Many people request information from the SCR, but only certain people may obtain information and only in specified circumstances defined in the law.

The people and agencies allowed to receive copies of indicated reports and reports of pending investigations are listed in SSL §422(4)(A)(a)-(aa). If the LDSS staff have any questions regarding the release of confidential documents, they should seek advice from their LDSS attorney or other legal counsel authorized to represent LDSS.

Access to unfounded reports is extremely limited, but the named subjects of an unfounded report are entitled to receive a copy of their own reports [SSL §422(5)(a)(iv)]. If the LDSS staff have any questions regarding the release of unfounded reports, they should seek advice from the LDSS attorney or other legal counsel authorized to represent LDSS.

A person who is entitled by law to receive CPS records may delegate an individual or agency (e.g., attorney, advocacy organization) to receive the materials on his/her behalf. The person entitled to receive the records must provide the SCR with a signed authorization form indicating he/she is consenting to the release of the information and the name, address, and other contact information for the authorized recipient. The authorization form must be specific to SCR or CPS records; the SCR will not provide records when the subject has provided only a Health Insurance Portability and Accountability Act (HIPAA) release or other general release for information.

## 7. Confidentiality regarding SCR Service Center inquiries

SCR staff members are prohibited from discussing or providing confidential information over the phone, even if the caller can provide case specific information (e.g., name of child, case identification number, etc.). It is a violation of law for anyone to release confidential information obtained or maintained by the SCR [SSL §422(12)]. OCFS and SCR employees may also be disciplined for confidentiality violations, including termination of his/her employment.