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## Local Commissioners Memorandum

<b>Transmittal:</b>	10-OCFS-LCM-02
<b>To:</b>	Local District Commissioners, Director of Services, Foster Care Supervisors
<b>Issuing Division/Office:</b>	Administration
<b>Date:</b>	May 14, 2010
<b>Subject:</b>	<b>Federal Administration for Children and Families' Final Report on the 2009 Title IV-E Subsequent Primary Foster Care Eligibility Review</b>
<b>Contact Person(s):</b>	Please contact your Regional Office with any questions: BRO – Mary Miller (716) 847-3145 <a href="mailto:Mary.Miller@ocfs.state.ny.us">Mary.Miller@ocfs.state.ny.us</a> RRO– Karen Buck (585) 238-8549 <a href="mailto:Karen.Buck@ocfs.state.ny.us">Karen.Buck@ocfs.state.ny.us</a> SRO– Jack Klump (315) 423-1200 <a href="mailto:Jack.Klump@ocfs.state.ny.us">Jack.Klump@ocfs.state.ny.us</a> ARO– Kerri Barber (518) 486-7078 <a href="mailto:Kerri.Barber@ocfs.state.ny.us">Kerri.Barber@ocfs.state.ny.us</a> SVRO– Pat Sheehy (845) 708-2498 <a href="mailto:Patricia.Sheehy@ocfs.state.ny.us">Patricia.Sheehy@ocfs.state.ny.us</a> NYCRO– Patricia Beresford (212) 383-1788, ext. 4708 <a href="mailto:Patricia.Beresford@ocfs.state.ny.us">Patricia.Beresford@ocfs.state.ny.us</a> Native American Services – Kim Thomas (716) 847-3123 <a href="mailto:Kim.Thomas@ocfs.state.ny.us">Kim.Thomas@ocfs.state.ny.us</a>
<b>Attachments:</b>	Yes: ACF Final Report '09 Title IV-E Foster Care Eligibility Report
<b>Attachment Available Online:</b>	N/A

### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to inform local departments of social services that New York State was recently found to be in **substantial compliance** with federal Title IV-E child and provider eligibility requirements by the federal Administration for Children and Families (ACF). This determination was based on the Subsequent Primary Title IV-E Foster Care Eligibility Review (FCER), completed in

Rensselaer during the week of August 31 – September 4, 2009. The federal report was issued on April 14, 2010. This LCM transmits this Final Report on the FCER.

ACF commends New York State for its significant efforts and clear achievements in continuing to improve compliance with Title IV-E eligibility requirements. These achievements could not have been made without the hard work of the social services districts, courts, voluntary authorized agencies and others over the last three years. Therefore, this LCM also extends OCFS's commendations to everyone who participated in the activities undertaken over the last few years to prepare for the Subsequent Primary Review.

Although New York State passed this Subsequent Primary Review, two error cases and several improper payments were found. This is important as federal Title IV-E eligibility reviews occur on a three-year cycle and the next review will have the same high compliance threshold of 95%. Therefore, this LCM is also a reminder that the state, local districts, courts, voluntary authorized agencies and other necessary partners must continue to work together to focus efforts on improving Title IV-E compliance, including improving case documentation. The attached Final Report sets forth the ACF findings on areas in need of improvement and areas of concern, as well as areas of strength.

## **II. Background**

This FCER applied to cases where Title IV-E was claimed during an established period during 2009. This review follows two previous reviews conducted by ACF.

In 2003, ACF conducted a Primary Eligibility Review of New York State's Title IV-E Foster Care program. A total of 80 cases were reviewed and 31 cases were found to be in error. As this error rate exceeded the threshold of 10% (eight cases), New York State was found to not be in substantial compliance and was subject to a Secondary Eligibility Review. Over the next two years, OCFS, social services districts, the Office of Court Administration and others worked to implement the Title IV-E Program Improvement Plan (PIP) developed as a result of the Primary Review Report. Each social services district also developed and implemented its own PIP that incorporated the Title IV-E standards, findings from the initial Primary Review, and each district's assessment of the specific areas needing improvement and action steps to achieve compliance. These activities helped New York State prepare for the successful 2006 Secondary Review.

In 2006, ACF conducted the Secondary Title IV-E FCER in New York. In that review, 150 cases were reviewed and the threshold was 10% (case error rate and dollar error rate could not exceed 10%). OCFS was found to be in substantial compliance and work began for the preparation of the 2009 Subsequent Primary Review.

For the 2009 Review, ACF reviewed 80 cases for a threshold of 5% (no more than 4 cases in error). New York State was found to be in substantial compliance with only two error cases. An additional 15 cases are cited for improper Title IV-E payments. ACF has disallowed \$238,346 in Title IV-E funds for the error cases and non-error cases with ineligible payments. To avoid an assessment of interest, these funds must be returned to the federal government through a decreasing adjustment to the state's federal Title IV-E claims within 30 days of the report. Social services districts with error cases and/or payment errors will be advised under

separate cover letter on how to report the decreasing adjustment for their cases. OCFS will continue to review the error cases to determine if an appeal to the Departmental Appeals Board is warranted.

It is important to note that if the state had been found to be not in substantial compliance for this Subsequent Primary Review, a new PIP would have been required followed by another Secondary Review in 2012. This review would have entailed a more extensive review of 150 cases with an error threshold of 10%. If OCFS failed, the error rate would have been extrapolated for the period under review, across the entire Title IV-E claim with a potentially significant fiscal impact. Due to the successful completion of the Subsequent Primary Review, a PIP and Secondary Review are not required.

### **III. Program Implications**

New York State will undergo another Title IV-E Subsequent Primary Review in 2012. That review will again consist of a sample of 80 cases. The error rate for achieving compliance will remain at 5% or less, i.e., four or less error cases. In order to remain successful in the next Subsequent Primary Review, it is critical that the state, social services districts, the courts and our other partners continue activities to support compliance with Title IV-E eligibility requirements.

As a start, local social services districts are encouraged to review and update their Title IV-E procedures to continue necessary activities to maintain and improve Title IV-E compliance. The review should specifically include the areas ACF noted as in need of improvement in the Final Report of the Secondary Review. OCFS intends to supplement these district efforts by periodically conducting reviews of Title IV-E cases and surveys of court order and foster home licensing compliance.

Additionally, OCFS will continue to work closely with social services districts, the courts, voluntary agencies and others to support additional activities and communications that are essential to New York State's success in future federal Title IV-E Foster Care Eligibility Reviews. For example, OCFS will be updating the Title IV-E eligibility manual and checklist as well as initiating additional training for local district staff. Information will be made available shortly on the OCFS website.

Please contact your OCFS Regional Office if you have any recommendations, questions, or concerns.

*/s/ Thomas S. Tipple*

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**Issued By:**

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Title: Deputy Commissioner

Division/Office: Administration