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## Local Commissioners Memorandum

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

**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. Background**Previous 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*

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**Issued By:**

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

# Family Assessment Response (FAR) Application

## **Name of Applicant County:**

**Name and contact information** for the person in your agency to contact regarding this application:

**Please complete all items in this application unless marked “if applicable,” in which case the information should be provided if appropriate. It may be helpful to refer to the OCFS *FAR Readiness Checklist* for ideas about the information to be provided in each section (at <http://ocfs.state.nyenet/cps/FAR/Other%20FAR%20Resources>).**

## **I. Rationale for Implementation of FAR**

- A. Describe your rationale for applying to implement Family Assessment Response (FAR) and for undertaking the practice shift to FAR.
- B. What benefits are you seeking for your district through the implementation of FAR? For the families reported to your district? For your community?
- C. Provide a brief assessment of your district’s current child welfare / child protective services (CPS) case practice, including an assessment of your district’s current strengths regarding family engagement, assessing safety and risk, family-led strengths and needs assessment, and solution-focused practice.
- D. Identify areas of practice where you anticipate that development and support will be needed in the successful implementation of FAR.

## **II. Intake - Criteria for Assigning Reports to Family Assessment Response**

While New York State Law excludes assignment to FAR of CPS reports containing certain categories of allegations, a majority of all CPS reports remain eligible for FAR assignment. OCFS has found that when districts severely limit the types of allegations assigned to FAR, it impedes the successful implementation of FAR. Therefore, OCFS policy requires districts to commit to screening in a broad range of allegations for FAR assignment.

As per New York State law, reports with allegations said to have occurred outside of family settings (e.g., day care, residential settings) cannot be assigned to FAR. While reports regarding foster boarding homes are not legally excluded from assignment to FAR, their inclusion cannot be supported by CONNECTIONS at this time. Also in accordance with State law, reports containing the following allegations cannot be assigned to FAR:

- sex abuse (i.e., commission of a sex offense against a child)
- child prostitution
- incest
- a child engaged in, or use of a child for purposes of, child pornography
- assault against a child
- attempted or committed murder or manslaughter in the first or second degree
- child abandonment
- severe or repeated abuse
- neglect resulting in failure to thrive

A. List additional criteria you will use to screen out reports from FAR (if applicable):

B. List the types of reports to be screened into FAR:

C. Describe the procedures you will use to screen reports into FAR:

### III. Projected Caseloads and Workforce Allocation

Developing a successful FAR program requires assigning a sufficient number of cases to FAR to foster a vibrant program. Districts should commit to assigning to the FAR track a meaningful percentage (i.e., a minimum of 30-40%) of those CPS reports that fall within the categories of cases meeting the district's criteria for FAR. Alternatively, medium to large sized districts may wish to serve one or more communities that have a disproportionately large number of CPS reports and/or a disproportionately high minority representation in their CPS reports; they should commit to assigning to FAR a minimum of 15-20% of all CPS reports in those communities that meet state requirements for FAR inclusion.

**A. Caseload projections** - After reviewing past CPS data in your district and the criteria you plan to use to assign cases to FAR, provide the following information to estimate your **projections** for the assignment of cases to FAR in the first 12 months of operation:

1. Total number of CPS reports in your district in the past year (use the most recent data available):
  
2. Number of reports projected to be assigned to FAR in the first year:
  
3. % of all CPS reports received that you project will be assigned to FAR:  
%
  
4. % of those CPS reports *meeting your district's criteria for inclusion in FAR* that you project will be assigned to FAR:  
%



5. Additional comments (optional):

**B. Decision-making about staff allocations**

Describe how you plan to staff FAR. (Please note: because FAR is a CPS service, the basic training requirements for staff assigned to FAR are the same as those for other CPS staff.) Include a description of your process for the identification of staff who will implement FAR. Are you assigning based on specific criteria, asking for volunteers, etc.?

**C. Staff allocations projected for the first year**

Field experience has demonstrated that FAR is implemented most easily and most effectively when staff assigned to FAR are responsible for FAR cases only and do not have mixed caseloads. Therefore, OCFS will not approve applications with a plan to implement FAR in which individual caseworkers will be assigned to routinely carry case loads of both FAR and Investigation cases. Supervisory oversight of mixed units should be considered only in small districts with two or fewer CPS units.

**1. Number of units currently (pre-FAR) providing child protective services:**

**2. Number of caseworkers and supervisors currently (pre-FAR) assigned to CPS:**

CPS caseworkers

CPS supervisors and senior caseworkers who supervise

**3. Number of units to be assigned to FAR**

Designate the number of units that will be responsible for FAR cases only, and the number of any units that will have mixed caseloads (if applicable):

Number of FAR units:

Number of mixed caseload units (if applicable):

**4. Supervisors to be assigned to FAR**

Designate the number of supervisors and senior caseworkers who supervise who will be responsible for:

FAR cases only:

Mixed caseload units (if applicable):

Describe the experience and qualifications of anticipated FAR supervisory staff:

**5. Caseworkers to be assigned to FAR**

Designate the number of caseworkers who will have FAR caseloads:

Describe the experience and qualifications of anticipated FAR caseworker staff:

**6. Describe other staff resources** to be dedicated to FAR (if applicable):

**7. Include additional information** about units and/or workers to be assigned, including **location** information if implementation will not be countywide (if applicable):

**D. Projected Start Date for FAR**

**E. Phase-in for the Workforce**

Describe your plans for phasing in your FAR workforce (if applicable):

**F. Future Plans (After the First Year)**

Describe any additional plans you may have regarding the future size of the FAR program and staffing patterns to accommodate the FAR program after the first year (if applicable):

**IV. Plans for Service Provision**

Describe:

- the types of services and supports you plan to provide to families in FAR.
- the procedures you will use in offering these services, including:
  - your strategies to apply the principle of actively engaging and empowering families in an ongoing process of assessing their strengths and needs, assessing child safety, and decision-making; and
  - how you plan to link families with needed services and goods through relationships with preventive services staff, TANF staff, and community service providers, including any plans to contract for such services.

**V. Community and Other Resources**

The success of every FAR Program is dependent upon the creation of vibrant and cooperative partnerships with services and programs in the community.

**A. Identification of stakeholders** – List the stakeholders for FAR that you have identified in your district and in your community:

**B. Community outreach** – Describe how your district has reached out to and coordinated with community stakeholders (or plans to do so) in the planning of FAR:

**C. Community resources** that may be used to assist families in FAR. Specify:

- Government agencies or resources:
  
- Non-government agencies or resources:

**D.** Describe how you will use community resources to **reduce government involvement** (including that of child welfare services) in the lives of families while maintaining child safety and preserving families:

**E. Local District Funding for Goods and Services**

A key component of FAR is the provision over the short term of needed goods and services, including wrap-around services, to families and children. While OCFS has had FAR flex funds (with no local share) available to districts that previously applied to participate in FAR, there is no current plan for the provision of State-only FAR flex funds going forward. Describe your plans for funding such services and your policy for the use of those funds. Provide an affirmation that, when necessary, you plan to fund these services for FAR families with a local share of the costs. (Note: Local share is to be claimed through the use of protective funding.)

**VI. Maintaining Safety / Assessing and Responding to Risk**

**A. Intake** – The initiation of a safety assessment within 24 hours is a FAR requirement. Describe the procedures and processes you will follow to initiate the assessment of the safety of children in FAR cases, including how you will or will not screen and assess SCR reports for FAR inclusion during on-call hours:

**B. Assessment** -- The completion of an initial safety assessment within seven days is a FAR requirement. FAR staff must also complete an assessment of risk and an assessment of family strengths and needs. OCFS requires that districts use the Family Led Assessment Guide (FLAG) for these comprehensive assessments and that a completed FLAG be maintained in the case record.

- Describe the procedures and processes you will follow to protect the safety of children and engage families in fully assessing safety, risk, strengths and needs.
- Include a statement in which you affirm that you will make a report to the Statewide Central Register of Child Abuse and Maltreatment (child abuse hotline) if, at any time after a CPS report has been tracked to FAR, there is reason to suspect that a child is in immediate or impending danger of serious harm or the family refuses to cooperate in addressing family problems and there is evidence of maltreatment.

- C. Service provision** – Describe how the FAR Program will enhance your ability to protect children, maintain their safety, reduce risk, and preserve families:
  
- D. Domestic violence cases** – Describe the protocol that you have developed to maintain the safety of child(ren) and the non-offending caretaker in FAR cases with suspected or confirmed domestic violence:

**VII. Training**

District staff and any non-district staff contracted to provide FAR assessment and services must participate in the FAR training and coaching programs, as designed by OCFS.

- A.** Describe training that has already been provided or is planned for FAR staff:
  
- B.** Describe any cross training, orientation, or preparation that has already been provided or is planned for FAR staff, CPS investigative staff, any other child welfare staff, and/or other district staff:
  
- C.** Describe FAR training/orientation that has already been provided or is planned for non-district organizations or entities:

**VIII. Monitoring and Quality Assurance**

Each district must agree to participate in any monitoring or quality assurance activities with OCFS and its agents as may be designated by OCFS. Each district must commit to engage in internal quality assurance activities that will enable them to continuously assess their fidelity to the FAR practice model and the efficacy of their FAR program, and adjust procedures and practices as necessary.

- A.** Describe the quality assurance procedures that your district plans to follow in order to self-monitor and assess the success of your provision of services in FAR cases:
  
- B.** Describe the procedures your district will use to monitor and assess the provision of services to families in the FAR Program by agencies with which you contract to provide services: