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Informational Letter

Transmittal:	08-OCFS-INF-01
To:	Commissioners of Social Services, Executive Directors of Voluntary Authorized Agencies, Directors of Day Care Centers and School-age Child Care Programs, and Directors of Residential & Non-Residential Domestic Violence Programs
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	January 18, 2008
Subject:	Mandated Reporters; Chapter 193 of the Laws of 2007 (replaces 07-OCFS-INF-07)
Suggested Distribution:	Directors of Services and Child Protective Services Supervisors
Contact Person(s):	See Page 8
Attachments:	No
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Filing References, if applicable

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
07-OCFS-INF-07	07-OCFS-INF-07	18 NYCRR 414.10 (c), 418-1.10 (c), 441.8 (c)	NYS SSL 413	CPS Program Manual, Section VII A. Mandated Reporters	

I. Purpose

The purpose of this Informational Letter (INF) is to advise commissioners, directors, and staff members of local departments of social services (LDSS's), voluntary authorized agencies (VA's), day care centers and school-age child care programs, and residential and non-residential domestic violence (DV) programs of the provisions contained in Chapter 193 of the Laws of 2007, which amended section 413 of the New York State Social Services Law (SSL). This act, which affects the procedures for mandated reporters on the

staff of any medical or other public or private institution, school, facility or agency in New York State, became law on July 3, 2007, and went into effect on October 1, 2007.

This INF will also provide guidance from the Office of Children and Family Services (OCFS), based on its interpretation of the law, on how mandated reporters and organizations that come under the auspices of the new law may fulfill their responsibilities when there is more than one mandated reporter from a single organization who has reasonable cause to suspect child abuse or maltreatment regarding the same incident or situation.

II. Background

Prior to the implementation of Chapter 193 of the Laws of 2007, section 413 of the SSL required that “[w]hensoever such person is required to report under this title in his or her capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she shall immediately notify the person in charge of such institution, school, facility or agency, or his or her designated agent, who then also shall become responsible to report or cause reports to be made.” Problems cited regarding this previous requirement included the questionable accuracy of second- or third-hand information being reported to the Statewide Central Register of Child Abuse and Maltreatment (SCR); concerns that persons in charge of institutions, schools, facilities or agencies, or their designated agents, do not make reports to the SCR when mandated reporters in their organization advise them of circumstances which should be reported; and the timeliness of some reports made with this protocol, which could affect the subsequent ability of the child protective services (CPS) worker to follow up with the original source of the report and his or her designee in a timely manner. Chapter 193 addresses these issues, as outlined in Section III below.

On September 12, 2007, OCFS issued Informational Letter 07-OCFS-INF-07 to inform agencies of the provisions of Chapter 193. However, many inquiries followed about whether *every* mandated reporter in an institution, school, facility, or agency who suspects child abuse or maltreatment must make a separate report directly to the SCR, which could result in multiple reports being made for a single incident and could also require significant time away from routine duties for staff members who are needed on duty. This INF is replacing 07-OCFS-INF-07 in order to add guidance on recommended procedures when there are multiple mandated reporters who suspect abuse or maltreatment regarding the same incident or circumstance that may relieve the necessity for multiple reports.

III. Program Implications

Summary of Provisions Introduced in Chapter 193 of the Laws of 2007

Beginning October 1, 2007, mandated reporters who work for a school, child care center or school-age child care program, foster care facility, residential care facility, hospital, medical institution, mental health facility, residential or non-residential program for victims of domestic violence, or other agency or organization that employs mandated reporters and who, through their work, have direct contact with a child or with the parent or other person who is legally responsible for a child that causes them to have reasonable cause to suspect that a child has been abused or maltreated, must *personally* make a report to the SCR. They must then immediately notify the person in charge of the institution, school, facility or agency where they work or the designated agent of the person in charge that a report has been made. The mandated reporter's report to the SCR must include (to the best of his/her knowledge) the name, title, and contact information for every staff person of the institution, school, facility or agency believed to have direct knowledge regarding the allegations in the report. Once the report is made, the person in charge at the institution, school, facility or agency, or the designated agent of such person, is responsible for all subsequent administration necessitated by the report. This may include providing follow-up information (e.g., relevant information contained in the child's educational record) to CPS, and will also include completing the form LDSS 2221A, which requires listing the names, titles, and contact information of all staff of the institution, school, facility, or agency who are believed to have knowledge of the allegations contained in the report.

These procedures differ from those required prior to the implementation of Chapter 193 in that the law now requires that a mandated reporter who has direct knowledge of possible child abuse or maltreatment, and not the person in charge of the institution, school, facility or agency, who does not have direct knowledge of the alleged abuse or maltreatment, must make the initial report to the SCR.

Chapter 193 also specifies that no medical or other public or private institution, school, facility or agency shall take any retaliatory personnel action against an employee who made a report to the SCR. Furthermore, no school, school official, child care provider, foster care provider, residential care facility provider, hospital, medical institution provider or mental health facility provider shall impose any conditions, including prior approval or prior notification, upon a member of their staff mandated to report suspected child abuse or maltreatment.

Chapter 193 also amends section 413 of the SSL to clarify that the term "school official" includes school teachers, guidance counselors, school

psychologists, school nurses, school social workers, school administrators and other school personnel required to hold a teaching or administrative license or certificate in the list of individuals classified as mandated reporters and therefore required to report cases of suspected child abuse or maltreatment to the SCR.

Residential and non-residential DV programs may employ staff members who are explicitly listed as mandated reporters under section 413 of the SSL. Additionally, employees working at residential and non-residential programs for victims of domestic violence are required to report cases of suspected child abuse or maltreatment pursuant to OCFS regulations at 18 NYCRR 452.9(e) and 462.8. As such, the provisions of Chapter 193 would be applicable in residential and non-residential DV programs.

Recommended Procedures When Multiple Mandated Reporters Suspect Abuse or Maltreatment

The following is guidance from OCFS on what OCFS considers to be the proper interpretation of the requirements of section 413 of the SSL in light of the amendments to the statute made by Chapter 193 of the Laws of 2007.

The mandated reporter statute (section 413 of the SSL) requires all defined mandated reporters who have reasonable cause to suspect child abuse or maltreatment to make or cause a report to be made to the SCR. The ability that existed under prior law to discharge the mandated reporter responsibility by notifying the person in charge of an institution, school, facility or agency or the designated agent of that person so that the person in charge or designated agent was responsible to make the report, was removed from the statute by Chapter 193 of the Laws of 2007. However, the statute continues to provide that more than one report is not required from any institution, school, facility or agency.

The area of concern is situations in which multiple mandated reporters have direct knowledge of and/or have reasonable cause to suspect child abuse or maltreatment concerning a particular incident, situation or occurrence. For example, multiple mandated reporters may respond to a particular incident or be aware of an incident and as a result multiple mandated reporters have reasonable cause to suspect abuse or maltreatment. OCFS interprets the new law to mean that each of the mandated reporters in that type of situation does not necessarily have to make a separate call to the SCR. An institution, school, facility or agency may establish a policy that complies with the statute so long as one mandated reporter with direct knowledge of the possible abuse or maltreatment and reasonable cause to suspect child abuse or maltreatment has called in a report to the SCR and the report was accepted by the SCR. Once one mandated reporter has done so, any other mandated reporters in the institution, school, facility or agency with direct knowledge of the possible abuse or maltreatment who know that such report was made are not required

to make a separate additional report. (OCFS recommends that any such policy be in writing so the policy will be clear to all staff.) The mandated reporter who made the report may advise the other mandated reporters that the call was made to the SCR and whether a report was accepted or not accepted. In addition, mandated reporters may ask other mandated reporters with direct knowledge of the possible abuse or maltreatment if they made a call to the SCR and whether a report was accepted or not accepted. Mandated reporters must not compare or discuss the specifics of the incident with the intent or purpose of falsifying, conspiring or colluding in preparing any report of the alleged abuse or maltreatment.

The mandated reporter who makes the call to the SCR is required to advise the SCR of the name, title, and contact information for every staff person of the institution, school, facility or agency who the mandated reporter believes has direct knowledge of the alleged abuse or maltreatment. The mandated reporter should also note which, if any, of these persons are also mandated reporters. The mandated reporter who is making the call to the SCR should not delay making the call to the SCR in order to attempt to determine a complete list of all staff members who also have direct information about the alleged abuse or maltreatment or to determine which other mandated reporters also have reasonable cause to suspect abuse or maltreatment. The mandated reporter should provide information on other staff with direct knowledge and other mandated reporters in the institution, school, facility or agency based on what the mandated reporter knows at the time the mandated reporter determines that he or she has reasonable cause to suspect and makes the call to the SCR.

A mandated reporter who makes a report must immediately notify the person in charge of the institution, school, facility or agency, or the designated agent of the person in charge and provide the information reported to the SCR, including the names of other persons identified as having direct knowledge of the alleged abuse or maltreatment and other mandated reporters identified as having reasonable cause to suspect. All other mandated reporters with direct knowledge of the incident also must notify the person in charge or designated agent of the information they have about the alleged abuse or maltreatment, including the fact that a report was made to the SCR and who made the report. If a mandated reporter who did not make the call to the SCR is told by the mandated reporter who called the SCR that a report was not accepted by the SCR, and the mandated reporter who did not make the call believes that he or she has reasonable cause to suspect child abuse or maltreatment, the mandated reporter who did not call the SCR must call the SCR and attempt to make a report, being sure to advise the SCR of any information that might not have been provided by the mandated reporter who previously made the call. As with the initial call to the SCR, the mandated reporter may advise other mandated reporters that the call was made to the SCR and whether a report was accepted or not accepted, and other mandated reporters in the institution, school, facility or agency may ask other mandated reporters with direct

knowledge of the incident if they made a call to the SCR and whether a report was accepted or not accepted based on that call.

Mandated reporters must also comply with their employer's policies and procedures concerning any other required actions or documentation regarding an incident or situation which may be child abuse or maltreatment. The mandated reporter may, for example, also be responsible for completing incident reports, making log entries, or making entries in a child's case record concerning the incident at issue in the report to the SCR.

The person in charge or designated agent, when advised by a mandated reporter that the report was made to the SCR by another mandated reporter, shall confirm with the mandated reporter who made the call that a report was made and accepted by the SCR. The institution, school, facility or agency should establish a policy as to how this confirmation will be accomplished. Please note that, for reasons of confidentiality, the SCR cannot confirm to a different mandated reporter or other caller whether a report was accepted, so calling the SCR to confirm that a report was accepted is not an option. However, when a report is accepted, the SCR will advise the mandated reporter who made the report of the SCR number assigned to the report. Thus, one way for an institution, school, facility or agency to confirm that a report was accepted is to obtain the SCR report number from the mandated reporter who made the report. If the report was made and accepted, the person in charge or designated agent must gather all necessary information from each of the mandated reporters with direct knowledge of the incident and determine if a subsequent call should be made to the SCR to provide additional or follow-up information. If the person in charge or designated agent believes there is reasonable cause to suspect child abuse and maltreatment and is unable to confirm that the report was made and accepted, the person in charge or designated agent must immediately personally make a report to the SCR.

The person in charge or designated agent, once notified that a report has been made to the SCR, becomes responsible for all subsequent administration concerning the report, including preparation and submission of the form DSS 2221A. The person in charge or designated agent may fulfill this responsibility directly or through delegation to another person, but the responsibility for the subsequent administration lies with the person in charge or designated agent. The person in charge or designated agent may prepare and submit one form DSS 2221A on behalf of all of the mandated reporters. No more than one form DSS 2221A is required from an institution, school, facility or agency concerning a given incident or allegation of child abuse or maltreatment. The form must include the names and contact information for all persons with direct knowledge of the alleged abuse or maltreatment and should identify all mandated reporters on whose behalf the form is submitted.

Nothing in such a policy may preclude any person, including other mandated reporters who have knowledge of and/or who reasonably suspect child abuse or maltreatment, from making a separate report to the SCR. However, the

policy may establish reasonable protocols for staff making reports so that adequate staff coverage and supervision of children is maintained. This is true of both the initial call to the SCR and any subsequent calls made by other mandated reporters who believe they have reasonable cause to suspect child abuse or maltreatment. These protocols must provide for maintaining necessary staff coverage and applicable staff-to-child ratios. Although calls to the SCR should be made as soon as is reasonably possible once the mandated reporter has reasonable cause to suspect abuse or maltreatment, the statute does not set forth a specific time frame within which calls to the SCR must be made. Accordingly, the policy should make provision for adequate staff coverage and child care consistent with enabling the mandated reporter to make the call to the SCR within a reasonable time frame.

Any policy should also reiterate the statute's requirement that no conditions, prior approvals, or prior notification requirements may be placed on mandated reporters related to calling in reports to the SCR. Lastly, any policy should state that any retaliatory personnel action, as defined by Labor Law Section 740, against any employee who makes a report to the SCR is in violation of the law and is not permitted. Section 740 of the Labor Law defines "retaliatory personnel action" as discharge, suspension, demotion, or any other adverse employment action involving the terms or conditions of employment.

The ability of an institution, school, facility or agency to establish a policy under which every mandated reporter on the staff of the institution, school, facility or agency need not make a separate call to the SCR about the same alleged abuse or maltreatment does not exempt mandated reporters outside the institution, school, facility or agency from making their own reports to the SCR. For example, if a residential facility has multiple mandated reporters on staff who have reasonable cause to suspect abuse or maltreatment, and one or more of those mandated reporters knows that the police and a hospital are also involved and most likely also have reasonable cause to suspect abuse or maltreatment, one mandated reporter at the residential facility may make one report to the SCR on behalf of all of the mandated reporters in the facility, but the police and hospital staff would still have the independent responsibility as mandated reporters to make their own reports to the SCR. The one exception to this would be the situation where a mandated reporter becomes aware of alleged abuse or maltreatment through information they receive by being contacted by the local child protective service or social services district as a result of an existing report of alleged child abuse or maltreatment. For example, if the local child protective service contacts the police for purposes of conducting a joint investigation of an existing report, the police would not be required to call in their own report after interviewing the child or alleged subject. If a referral is made to a preventive services agency or other service provider because of the report of alleged abuse or maltreatment, the service provider would not be required to make a separate report after contacting the family. In such situations, the mandated reporter knows that a report has been made and so another report would be unnecessarily duplicative.

LDSS commissioners, executive directors of voluntary agencies, directors of OCFS- licensed day care centers and registered school-age programs, and directors of residential and non-residential DV programs should notify their respective staff of the provisions contained in Chapter 193 of the Laws of 2007, as outlined above.

IV Contact Persons

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