



# Office of Children and Family Services

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## Administrative Directive

<b>Transmittal:</b>	21-OCFS-ADM-21
<b>To:</b>	Commissioners of Social Services
<b>Issuing Division/Office:</b>	Division of Child Care Services
<b>Date:</b>	September 3, 2021
<b>Subject:</b>	<b>Tracking Child Care Providers Disqualified from Receiving Child Care Subsidy Pursuant to 18 NYCRR 415.4(h)(2)</b>
<b>Suggested Distribution:</b>	Directors of Social Services Directors of Services Directors of Temporary Assistance Supervisors of Day Care Supervisors of Temporary Assistance Child Care Assistance Staff
<b>Contact Person(s):</b>	Child Care Subsidy Program questions: <ul style="list-style-type: none"> <li>Maryellen DeCicco, OCFS Division of Child Care Services, 518-408-3395, <a href="mailto:Maryellen.DeCicco@ocfs.ny.gov">Maryellen.DeCicco@ocfs.ny.gov</a></li> <li><a href="mailto:ocfs.sm.districtsupport.subsidy@ocfs.ny.gov">ocfs.sm.districtsupport.subsidy@ocfs.ny.gov</a></li> </ul> Child Care Facility System (CCFS) questions: <ul style="list-style-type: none"> <li><a href="mailto:ocfs.sm.ccfshelp@its.ny.gov">ocfs.sm.ccfshelp@its.ny.gov</a> or 800-697-1323</li> </ul> Child Care Time and Attendance (CCTA) questions: <ul style="list-style-type: none"> <li><a href="mailto:Support@controltec.com">Support@controltec.com</a> or 877-369-6106</li> </ul>
<b>Attachments:</b>	None

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
14-OCFS-LCM-04 12-OCFS-LCM-01		18 NYCRR 415.4(h)(2)	45 CFR 98.68		

## I. Purpose

The purpose of this Administrative Directive (ADM) is to direct local social services districts (districts) to implement a new process related to providers disqualified from receiving child care subsidies. Specifically the change is to the process to inform the New York State Office of Children and Family Services (OCFS) child care regional offices and legally exempt enrollment agencies of disqualified licensed or registered child care providers and disqualified enrolled legally exempt providers, respectively, when the district has disqualified a provider from receiving child care subsidies funded under the New York State Child Care Block Grant (NYSCCBG) and Title XX of the federal Social Security Act. OCFS previously notified districts about such processes regarding provider disqualifications in 14-OCFS-LCM-04, *Child Care Subsidy Fraud Regulations*. Districts must continue to adhere to the procedures set forth in 14-OCFS-LCM-04, with the exception of the changes described herein.

## II. Background

Effective October 5, 2011, OCFS made regulatory changes to Part 415 of Title 18 of the Rules and Regulations of the State of New York (NYCRR) to promote the fiscal integrity of the child care subsidy program by establishing a clear regulatory basis for holding child care providers accountable for committing fraud. Districts were informed of these regulatory changes in 14-OCFS-LCM-04, *Child Care Subsidy Fraud Regulations*. Notably, 18 NYCRR 415.4(h)(2) specifies when a district may disqualify a provider from receiving payment for child care services provided under the child care subsidy program; describes the administrative review process; establishes periods of disqualification during which child care providers are ineligible to receive child care subsidies; and requires districts to provide appropriate information concerning the disqualification to the appropriate OCFS child care regional office for disqualified licensed or registered child care providers, and the appropriate legally exempt enrollment agencies for disqualified enrolled legally exempt providers. Local Commissioners Memorandum 14-OCFS-LCM-04 directed districts to send written notice of all provider disqualifications to both the OCFS Division of Child Care Services home office and the appropriate enrollment agency when the disqualified provider is an enrolled legally exempt child care provider, or the appropriate OCFS child care regional office manager when the disqualification pertains to a licensed or registered child care provider. At that time, the applicable regional office or enrollment agency would enter the provider disqualification into the Child Care Facility System (CCFS) utilizing the existing windows. However, districts were unable to easily access provider disqualification information outside their own district.

## III. Program Implications

A new subsidy disqualification window has been added to CCFS, which will allow districts to directly enter provider disqualification information into CCFS and to easily manage and identify providers who have been disqualified from receiving child care subsidy funds. Districts must complete data entry in the CCFS disqualification window for all licensed, registered, and legally exempt providers who become disqualified. Disqualifications must be entered in CCFS within 30 days of the effective date of the disqualification of a provider. A provider who has been disqualified from receiving payment for child care services

provided under the child care subsidy program pursuant to 18 NYCRR 415.4(h)(2)(i) is ineligible to receive such payments through any social services district for five years from the date of the disqualification. Disqualification data must be entered in CCFS even if the provider's record in CCFS is currently closed. Districts must also update the disqualification window once restitution of any falsely obtained funds to the district is complete, if applicable. Regardless of the date the repayment is made, the disqualification period will not be lessened. If restitution is required and not made, the disqualification will stay open indefinitely until repayment is complete.

By completely entering disqualification data in CCFS, the district fulfills its obligation of providing appropriate information concerning the disqualification to the appropriate regional office, if the provider is a licensed or registered day care provider, or to the appropriate enrollment agency and OCFS home office, if the provider is a legally exempt child care provider.

Districts were previously notified in 12-OCFS-LCM-01, *Changes to the Legally Exempt Child Care Provider Enrollment Process*, dated February 12, 2012, of the availability of the OCFS-2114 (12/2013), *District Notification to Legally Exempt Caregiver Enrollment Agency*. Districts are no longer required to use this form to notify enrollment agencies of the disqualification of enrolled legally exempt providers. Districts may continue to use the OCFS-2114, in addition to completing the disqualification window; however, this is no longer required.

Legally exempt providers who are disqualified by a district are no longer eligible to receive child care subsidy payments and must have their enrollments terminated by the relevant enrollment agency. Because a legally exempt provider may be enrolled to care for children with subsidies from more than one paying district, a disqualification of a legally exempt provider that leads to a closed enrollment may affect a family from another district.

Disqualifications that are recorded in CCFS are not person-specific, rather they are tied to the facility record. If a disqualified legally exempt provider applies for a new enrollment with a new site of care, this will result in a new facility record being created in CCFS. The enrollment agency case manager must conduct a thorough search prior to opening a new enrollment and deny the enrollment application of any persons who have a current subsidy disqualification.

Disqualifications of providers permitted by the New York City Department of Health and Mental Hygiene (NYC DOHMH) who are not enrolled as legally exempt providers, such as permitted day care centers, cannot be entered in CCFS, as these providers do not have CCFS records. All relevant disqualification data for such providers must be communicated directly to NYC DOHMH.

Licensed and registered child care providers who are disqualified from receiving child care subsidy payments are not automatically subject to closure. However, depending on the circumstances of the disqualification, this may impact the provider's licensure or registration. Furthermore, districts may request that OCFS initiate an enforcement action

against child care providers who receive child care subsidies and are found to be non-compliant with the subsidy regulations. A district seeking such action shall contact the appropriate OCFS child care regional office and present such evidence as requested by the regional office of the provider's non-compliant actions, where appropriate.

#### **IV. Required Action**

For all child care providers with records in CCFS, districts must complete data entry for disqualified providers in the CCFS disqualification window within 30 days of the effective date of the disqualification, regardless of whether the provider's record is currently closed. Districts must also update the disqualification window, as needed. In order to do so, districts must have at least one person with an active CCFS account and assign that user the appropriate security role.

For disqualifications of child care providers without a CCFS record (child care centers issued a permit by NYC DOHMH), the district must notify NYC DOHMH in writing of the disqualification within 30 days of the effective date of the disqualification, regardless of whether the child care center program is currently open and operating. Notification of disqualification must be made in writing and include the program's name, address, and disqualification dates. The district must also provide NYC DOHMH with any updated disqualification information.

Districts that do not use the Child Care Time and Attendance (CCTA) system to process child care subsidy payments must implement local processes such that payments are not made to providers who have been disqualified from receiving child care subsidy.

#### **V. Systems Implications**

CCFS has been updated to include a provider disqualification window. All districts also have access to a report of providers disqualified from receiving subsidy. Further information on reports and more specific directions on how to complete the subsidy disqualification window will be forthcoming. For districts that use CCTA to process child care subsidy payments, denial of payments to providers who have been disqualified from receiving child care subsidy, and whose disqualification has been entered into the CCFS disqualification window, will be automatic. Districts must continue to track providers who were disqualified prior to the implementation of the CCFS disqualification window to ensure that those providers are not paid to provide care for children who receive child care subsidy.

Reports are available in CCFS to retrieve provider disqualification data for all child care providers except child care centers with permits issued by NYC DOHMH. The interface between CCFS's and NYC's database will be updated in a future CCFS release to include disqualification data.

**VI. Effective Date**

This release will be effective upon issuance.

*/S/ Janice M. Molnar*

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**Issued by:**

Name: Janice M. Molnar, Ph.D.

Title: Deputy Commissioner

Division/Office: Division of Child Care Services