

Chapter 12: Notifications

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Chapter 12: Notifications

New York State laws and regulations require that specific notifications be provided to certain persons during a child protective investigation or family assessment response [e.g., [SSL §424\(6\)\(a\)](#); [18 NYCRR 432.2\(b\)\(3\)\(ii\)\(f\)](#)]. The notifications serve to protect the interests of the child, the family and caregivers, the agency that provides the investigation or alternative response, and other agencies involved with Child Protective Services (CPS).

When the LDSS is aware that the intended recipient of a CPS notification has Limited English Proficiency (LEP), the CPS worker should take reasonable steps to provide the notification in the person's language or, if the notification cannot reasonably be translated into the needed language, make other arrangements (for example, arranging for the provision of an oral translation of the notification) that would enable the person to understand the communication.

The CPS worker may assess a recipient's language needs through a variety of means:

- The SCR may have designated the person's language in CONNECTIONS (CONNEX).
- The source or a collateral contact may indicate in conversation with a CPS worker that the person has limited proficiency in English.
- The CPS worker may know from previous contact with the person/family, or from contact during the investigation, that a person has Limited English Proficiency.

Spanish-language versions of many CPS notification letters are provided in CONNX. OCFS also provides translations of CPS notifications on its intranet website in several other languages. Translated notices are available at: <http://ocfs.state.nyenet/admin/forms/connections/>. This website is available to LDSS staff, but is not accessible to the public.

While CPS workers routinely provide persons with LEP with the translated notices, they must also provide them English language versions of the same notices.

Similarly, if the CPS worker learns that the recipient of a notification is visually impaired, the CPS worker must take appropriate steps established by the local district to enable the recipient to be able to access the contents of the notification.

A. Notice of existence of a child protective report – familial setting

Upon receipt of a report that is assigned to an investigation, CPS must provide a written notice of the existence of the report and of the subject(s)' rights regarding amendment to the subject(s) and any other persons named in the report. This includes any non-subject parent(s), other household members who are person(s) legally responsible for children named in the report, and any other adult named in the report. (Children in the household are also persons named in the report, but children under age 18 are not notified.) [[SSL §424\(6\)\(a\)](#); [18 NYCRR 432.2\(b\)\(3\)\(ii\)\(f\)](#)]

A CPS worker must mail or personally deliver the Notice of Existence but in no event later than seven days after receipt of the report by the Statewide Central Register of Child Abuse and Maltreatment (SCR) [[18 NYCRR 432.2\(b\)\(3\)\(ii\)\(f\)](#) & [432.3\(j\)](#)]. Notice of Existence must be provided for every initial or subsequent report. They are not required if a report is determined to be a duplicate report by the SCR or CPS, or for Additional Information (Add Info) reports.

For reports assigned to the investigation track, each subject and each adult (Other Person Named) in the report, as well as non-subject parents of children named in the report who are not listed in the

report, must receive a separate copy of the notification letter [18 NYCRR 432.2(b)(3)(ii)(f)]. This includes parent substitutes, grandparents, boyfriends or girlfriends who may be considered persons legally responsible for the child, and others named in the report.

When a report is assigned to a Family Assessment Response (FAR), state law requires that the LDSS provide a written notice to each parent, guardian, or other person legally responsible for the child or children participating in the family assessment services case. The notice must explain that it is the intent of CPS to meet the needs of the family without engaging in a traditional investigation and that the persons working with the family are mandated reporters who are required to report any suspected abuse or maltreatment [SSL §427-a(4)(d)(i); 18 NYCRR 432.13(e)(2)(i)]. While all parents, including non-custodial and out-of-household parents, are entitled to receive this notification of the existence of a FAR report, there is no legal requirement to further involve all of them in the FAR intervention.

If a case assigned to FAR is open, and a subsequent report is received that is consolidated with the open FAR case, the requirement to provide written notification is waived; CPS must provide verbal notification of the new report to every parent, guardian or other person legally responsible for the child or children named in the report.

When a notification letter is generated in CONNX, the system pre-fills the address and salutation lines with the name and address information maintained in CONNX. It is therefore important that CPS workers update the demographics of each person in the case in CONNX.

Whenever a CPS worker identifies someone during the investigation who satisfies the definition of “subject of the report” or “other person named in the report,” but who was not named in the report received from the SCR, the LDSS must add that person to CONNX and provide that person with the appropriate Notice of Existence letter.

The date and method of delivery of the notification letter(s) should be recorded in progress notes [18 NYCRR 428.5; 432.13(e)(5)].

Hand delivery of the notification letter is preferable to mailing the letter. By handing a notification letter to the subject and to other persons named in the report, the caseworker can discuss the contents of the letter and answer any questions they may have about it. E-mailing or faxing notification letters is not permitted due to confidentiality and security issues. Where a report is assigned to FAR, discussing the contents of the letter with the subjects/parents is an essential part of the FAR practice.

Adding non-subject parents and others

CPS workers should add non-subject parents and others who were not noted in the original report to the case record so letters can be sent to them. CONNX generates separate letters for each person listed.

Notification letters

Notice of Existence letters and Notice of Indication letters are mailed out by CPS and these letters should be printed on LDSS agency letterhead. Also if a LDSS chooses to use their own notification letters, these letters must contain the language specified and required by OCFS.

Non-CONNX letters

If a letter is generated outside of the CONNX system, for example a translated letter, it is still necessary to generate a letter in CONNX. This is an important step because doing so will add an event in CONNX that the letter was actually generated, which is particularly important should the subject request an administrative review. The SCR will review CONNX event list to see if the subject’s request for an administrative review is timely.

B. Notice of existence of a child protective report – out-of-home setting

An out-of-home setting refers to a setting that is not the child's familial home and that requires state or local government approval and is subject to state laws, regulation and oversight. For the purpose of this chapter out-of-home settings, refer to foster care and child care. (See **Chapter 7: Investigations in foster homes and child day care programs.**)

1. Notifications to persons named in the reports

The parents or guardians of any child alleged to have been abused or maltreated in a foster boarding home or a day care setting must be notified of the existence of the report. The Notice of Existence (Day Care/Foster Care) – Parent letter sent to them must contain language specified by the Office of Children and Family Services (OCFS), which provides this information. (See **Chapter 14: Appendices.**)

In addition, the CPS must provide a Notice of Existence (Day Care/Foster Care) – Alleged Subject letter to the foster parent or day care provider named as the subject of the report. This letter contains a notification of the report and information regarding the subject's right to appeal. This letter must also use the specific language specified by OCFS.

There is no provision for CPS to send a Notice of Existence letter to the director of a day care center or a school-age child care program or to the owner of a group family or family day care program when an employee of that program has been named as the subject of a report. The CPS caseworker may verbally share the existence of the report with the day care director/owner as part of their investigation but no Notice of Existence letter will be sent to the director/owner.

A CPS worker should record the date and method of delivery of the notification letter(s) in the case progress notes.

2. Notifications when a child in foster care is placed out of district

When a child in foster care has been placed in a foster boarding home located outside the social services district that has legal custody of the child, the LDSS responsible for conducting the investigation must notify the LDSS with legal custody that the child has been named in a report of abuse or maltreatment. OCFS has a model letter that may be used for this purpose "Notice of Existence of a Report." The model letter can be found in the appendix of this manual (see **Chapter 14: Appendices**). In addition, the investigating CPS must provide notification of the report to the LDSS or voluntary agency (VA) that certified or approved the foster home.¹

The CPS with primary jurisdiction for investigation the report must notify the LDSS with legal custody of the child(ren) in foster care named in the CPS report, and the LDSS or VA that certified or approved the foster home, and the applicable OCFS Regional Office, of the results of the investigation (whether the report was indicated or unfounded) at its conclusion. [SSL 424.6(b)]

¹ "Requirements Relating to CPS Reports Involving Foster Parents" ([16-OCFS-ADM-13](#))

C. Determination notices

At the conclusion of an investigation, each subject and adult other person(s) named in the report must be notified of the determination of the investigation, that is, whether the report has been indicated or unfounded. If the report is indicated, the notification is sent by CPS. If the report is unfounded, the notification is sent by the SCR [18 NYCRR 432.3(k)].

1. Investigations – Notice of Indication

If the report is indicated, the LDSS responsible for the investigation must mail or deliver a written Notice of Indication no later than seven days after the “indicated” determination. Notice of Indication letters are generated in CONNX. It is important that a CPS worker document in the progress notes the manner in which the notice was delivered to the subject and the date the subject received the notice, if known. If the notice is delivered via certified mail, CPS should keep the receipt on file, along with any other hard-copy documents in the report record.

Sample Notice of Indication letters:

- Notice of Indication (Familial)- Subject
- Notice of Indication (Familial)- Other Person Named in the Report
- Notice of Indication (Day Care/Foster Care) – Subject
- Notice of Indication (Day Care/Foster Care) – Other Person Named in the Report
- Notice of Indication (Day Care/Foster Care) – Parent

Spanish versions of each of these notification letters are available in CONNX, and CPS workers should use a Spanish version whenever the intended recipient of the notification is Spanish speaking and has Limited English Proficiency. OCFS also provides translations of the Notice of Indication in several other languages, which are accessible on its intranet website, at <http://ocfs.state.nyenet/admin/forms/connections/>. If the recipient of the report does not speak English or any of the languages for which OCFS has translations, the LDSS must employ some means of providing a translated Notice of Indication to the subject. This is especially important as it affects the subject of the report.

When a CPS worker sends a translated version of the Notice of Indication, the CPS worker should also provide the person with an English version of the same notice.

2. Investigations – Notice of Unfounding

If a report is unfounded, the SCR notifies the subject and any adult other persons named in the report that the report was unfounded. The SCR mails a computer-generated Notice of Unfounding letter to each of these persons 14 days after the report closes. Married parents or guardians may receive one letter jointly addressed.

However, if any of the recipients of these letters has LEP, the CPS worker should send, where available, a second, translated version of the Notice of Unfounding letter to that person. Translated versions of Notice of Unfounding letters are available on the OCFS intranet in several of the most commonly spoken languages in the state: <http://ocfs.state.nyenet/admin/forms/connections/>. Where a translated version is not available, the LDSS should try to inform the person with LEP about the contents of the letter through some other means that enables the person to understand the letter, such as the use of an interpreter or translator.

3. Family Assessment Response – Notice of Case Closing

When CPS addresses a Family Assessment Response (FAR) report, it does not make a determination of indicated or unfounded. Nevertheless, no more than seven days after closing a FAR case, CPS must notify the family, including all subject(s) of the report, that the case has been closed. The notification must be provided in writing and, if feasible, there should also be a verbal discussion about it with the family. FAR closing letters can be generated in CONNX, but LDSS may use their own letters. The notice must inform the family and subject(s) that the FAR report is sealed and that the records will be maintained for 10 years after the report was received at the SCR. Notices must also inform the subject(s) of the report about the applicable confidentiality provisions and of their right to access the records [[18 NYCRR 432.13\(e\)\(2\)\(viii\)](#)].

D. Notification of the removal of a child

When a child is removed from his or her home pursuant to [FCA §1021](#) (removal with consent), [§1022](#) (temporary removal by court order prior to filing a petition), or [§1024](#) (emergency removal), the CPS worker must provide the parent or the person legally responsible for the care of the child (PLR), with a written notice that **contains the following information**:

- The right of the parent or PLR to apply to the Family Court for the return of the child, pursuant to [FCA §1028](#)
- The right to be represented by counsel and the procedures for those who are indigent to obtain counsel (required for only 1021 and 1024 removals)
- The name, title, organization, address and telephone number of the person removing the child
- The name, address and telephone number of the authorized agency² to which the child will be taken, if known
- The telephone number of the person to be contacted for visits with the child [[FCA §§1021, 1022\(d\) & 1024\(b\)\(iii\)](#)]

When the removal is made on an emergency basis and without the consent of the parent or PLR, the written notice must also inform the parent or PLR of their intent to apply for a court order or orders, the date and the time that the application will be made, and the address of the court where the application will be made [[FCA §1024\(b\)\(iii\)](#)].

The Office of Court Administration (OCA) has promulgated forms that provide the required notices for removals. For removals pursuant to [FCA §1021](#) and [§1024](#), the LDSS must use Form 10-1a: “Child Protective-Notice of Temporary Removal of Child and Right to Hearing.” For removals pursuant to [FCA §1022](#), the LDSS must use Form 10-1: “Child Protective – Order Directing Temporary Removal of Child Before Filing of Petition.”

The applicable notice must be completed by the LDSS and hand-delivered to the parent or PLR at the child’s residence. If such person is not present at the residence at the time of removal, a copy of the notice must be affixed to the door of the residence and a copy mailed within 24 hours of the removal to the last known address of the parent or PLR. If the place of removal is not the child’s residence, a copy of the notice must be hand delivered to the parent or PLR. If the parent or PLR is not found, the notice must be affixed to the door of the child’s residence, and mailed within 24 hours of the removal of the child to the parent(s) or PLR(s), at his or her last known address [[FCA §§1022\(d\) & 1024\(b\)\(iii\)](#)].

If the removal is an emergency removal under [FCA §1024](#), the CPS worker must also file an affidavit with the court clerk within 24 hours (not including weekends and holidays) of providing the required notification, attesting to the fact that the notification was served [[FCA §1024\(b\)\(iii\)](#)].

² For this purpose, an “authorized agency” is the LDSS that placed the child as well as any voluntary agency in which the child is placed.

E. Other notices to parents / families

1. Notice when CPS is denied access to a child during an investigation

If, when investigating a report of suspected abuse or maltreatment, the CPS worker is unable to locate a child, is denied access to the home, or is denied access to the child named in the report or to any children in the household, and the CPS worker has cause to believe that a child's life or health may be in danger, that worker must immediately advise the parent, PLR, or adult with whom the child resides that:

When denied sufficient access to the child or other children in the home, the CPS worker may contact the Family Court to seek an immediate order to gain access to the home and/or the child or children without further notice, and

That while the request is being made to the family court, law enforcement may be contacted and, if contacted, will respond and remain where the child or children are believed to be present [SSL §424(6-a)].

Prior notification to the parent or other adult of this possibility is a requirement for obtaining the court order to gain access in this situation. The application for such a court order requires the CPS worker to specify the date that the parent was advised. This notification may be made verbally or in written form.

2. Notice regarding the right to refuse services

When a child abuse or maltreatment report is indicated, and after an assessment of safety and risk, it is the responsibility of the CPS worker to offer appropriate services to the child and/or the family. When offering these services to the family, the CPS worker must inform the family that it cannot be compelled to accept the services offered. Child protective staff should also inform the family that the CPS may petition the Family Court for a determination that a child is in need of care and protection and that services are necessary. This notification may be made verbally [SSL §424(10)].

F. Notifications of a child's death

1. Medical examiner or coroner

Any mandated reporter, including CPS, who has reasonable cause to suspect that a child has died as a result of child abuse or maltreatment must report that fact to the appropriate medical examiner or coroner. See **Chapter 2: Reporters**.

The medical examiner or coroner must accept the report for investigation and must issue a preliminary written report of his or her findings within 60 days of the date of death, absent extraordinary circumstances. The medical examiner or coroner must send his or her final written report promptly, absent extraordinary circumstances, to the police, the appropriate district attorney, CPS, OCFS, and the hospital (when the hospital is the institution making the report) [SSL §418; 18 NYCRR 432.3(e)].

CPS must document the findings of the report of the medical examiner or coroner in CONNX.

2. District Attorney

CPS must notify the appropriate District Attorney when it receives a report alleging abuse or maltreatment that involves the death of a child. The report must be made by telephone and a copy of the report must be forwarded immediately to the District Attorney. [SSL §424(4); 18 NYCRR 432.3(d)].

3. Law enforcement

CPS must give telephone notice and immediately forward to law enforcement a copy of any report from the SCR that involves the death of a child [SSL §424(5-a)].

4. Office of Children and Family Services

An LDSS, including CPS, must notify its applicable OCFS regional Office within 24 hours whenever it becomes aware of the death of a child, in any of these circumstances:

- The death allegedly occurred as the result of child abuse or maltreatment (the CPS received a report from the SCR)
- The child was in foster care at the time of the death [18 NYCRR 441.7(c)(1)]
- The child was in an open protective services case
- The child was in an open preventive services case

The LDSS must follow up the telephone call by submitting Form OCFS-7065, "Agency Reporting Form for Serious Injuries, Accidents, or Deaths of Children in Foster Care and Deaths of Children in Open Child Protective or Preventive Cases," to OCFS.³ This form is on the OCFS website at <http://ocfs.ny.gov/main/documents/>.

³ "Notification to OCFS of the Death of Children in Open Child Protective or Preventive Services Cases," (06-OCFS-LCM-13).

G. Notices of certain reports

1. Law enforcement

CPS must give telephone notice and immediately forward to the appropriate local law enforcement entity a copy of any report it receives from the SCR that contains allegations involving:

- Sexual abuse of a child, or
- Physical injury that meets the definition of abuse, as described in [FCA §1012\(e\)\(i\)](#) [[SSL §424\(5-a\)](#)]

However, such reporting is not required when the LDSS and law enforcement have an OCFS-approved protocol on joint investigations that states otherwise.

In addition, unless an OCFS-approved protocol between the LDSS and law enforcement states otherwise, the LDSS must make a timely assessment to determine whether it is necessary to give notice to the appropriate local law enforcement entity of any report of suspected maltreatment that:

- Alleges physical harm, and
- Source of the report is a mandated reporter, and
- There have been two other indicated or pending reports within the last six (6) months involving the same child, the named child's siblings, other children in the household, or the subject of the report [[SSL §424\(5-b\)](#)].

2. District Attorney

CPS must provide the District Attorney's office with immediate telephone notice and copies of all reports if the District Attorney's office has submitted a prior request in writing for such notice [[SSL §424\(4\)](#); [18 NYCRR 432.3\(g\)](#)]. The District Attorney's office must specify the kinds of allegations about which it wishes to be given notice and copies, and the request must include copies of the relevant provisions of the law. CPS may *not* notify the District Attorney of any reports that are assigned to FAR [[SSL §427-a\(5\)\(d\)](#)].

3. Office of Children and Family Services

An LDSS should notify its applicable OCFS Regional Office within 24 hours if it becomes aware of a serious injury (i.e., an injury which requires the services of a physician and, in the opinion of the physician, may cause death, serious disability or disfigurement) or accident involving a child who is in foster care.

Within 72 hours of the serious injury or accident the LDSS should follow up the telephone call by submitting Form OCFS-7065 (3/2008), "Agency Reporting Form for Serious Injuries, Accidents, or Deaths of Children in Foster Care and Deaths of Children in Open Child Protective or Preventive Cases," to the OCFS Regional Office⁴. This form is on the OCFS website at <http://ocfs.ny.gov/main/documents/>.

⁴ Ibid.

H. Notification of report amendment or expungement

Whenever a closed child abuse or maltreatment report is amended or expunged, the following individuals and/or entities must be notified by OCFS [[SSL §422\(9\)](#)]:

- The subject of the report
- Any other person named in the report
- The applicable investigative agency (i.e., CPS)
- If the child was placed in an out-of-home setting at the time of the report:
 - the local social services commissioner or school district placing the child
 - the state agency with jurisdiction over the facility or program where the child was placed
 - the director or operator of the residential care facility or program
 - any attorney for the child appointed to represent the child whose appointment has been continued by a family court judge during the term of a child's placement