



Office of Temporary and Disability Assistance

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Administrative Directive

Section 1

Transmittal:	17-ADM-06
To:	Social Services District Commissioners
Issuing Division/Office:	Shelter Oversight and Compliance
Date:	August 25, 2017
Subject:	Mandatory Child Abuse and Maltreatment Reporting, Statewide Central Register and State Exclusion List Clearance, and Criminal History Background Check for Employees of Publicly-Funded Emergency Shelters for Families with Children
Suggested Distribution:	
Contact Person(s):	Division of Shelter Oversight and Compliance at (518) 486-4040
Attachments:	Attachment 1 - OCFS 1986 ADM-43 Attachment 2 - OCFS LDSS 2221A Attachment 3 - OCFS LDSS-3371A Attachment 4 - OCFS Summary Guide for Mandated Reporters in New York State Attachment 5 - Justice Center Authorized Person Designation Form Attachment 6 - Justice Center Request for Staff Exclusion List Check Form Attachment 7 - DCJS Request for Access to Criminal History Record Information Attachment 8 - Shelter Criminal Background Check Consent Form
Attachment Available Online:	<input checked="" type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR Part 901-1; Part 901-2	SSL § 412(9) SSL§ 413(1)(a); SSL § 424-a(3); SSL § 460-h; SSL § 495		

Section 2

I. Summary

This Administrative Directive (ADM) advises social service districts (districts) of the impacts and requirements of amendments to the Social Services Law contained in Chapter 56 of the Laws of 2017, relative to:

- 1) Employees of publicly-funded emergency shelters for families with children who are designated as mandated reporters of child abuse and maltreatment.
- 2) The requirement for checks of the Office of Children and Family Services (OCFS) Statewide Central Register of Child Abuse and Maltreatment (SCR) and the Justice Center Register of Substantiated Category One Cases of Abuse or Neglect (Staff Exclusion List or SEL) for certain qualifying individuals who have the potential for regular and substantial contact with children served by the publicly-funded emergency shelters for families with children.
- 3) Division of Criminal Justice Services (DCJS) criminal background checks for certain qualifying individuals who have the potential for regular and substantial contact with children served by the publicly-funded emergency shelters for families with children.

II. Purpose

This directive advises districts of the designation of employees of publicly-funded emergency shelters for families with children as mandated reporters of child abuse and maltreatment and of new requirements for checks of the SCR, SEL and criminal background checks for certain qualifying individuals who have the potential for regular and substantial contact with children served by the shelter. Districts are responsible for communicating this information to the relevant shelters and ensuring, along with OTDA, that shelters are in compliance with all requirements.

III. Background

Chapter 56 of the Laws of 2017 amended the Social Services Law to define “publicly-funded emergency shelter for families with children” as “any facility with overnight sleeping accommodations and that is used to house recipients of Temporary Housing Assistance (THA) and which houses or may house children and families with children.” 18 NYCRR §901-1.1(a)(3) and 18 NYCRR §901-2.2(a)(8) further establish that a “facility” in this context is one that provides shelter to families with children receiving THA where the families receive services from an operator, provider, or the district when the district directly operates the facility or a contractor on behalf of the operator or provider or such social services district. For purposes of defining ‘facility’ in this context services are those provided specifically for residents of the facility and include any of the following: access to meals, supervision, assessment services, permanent housing preparation services, recreational services, information and referral services, health services, or child-care services. As such, facilities that only provide temporary shelter and no services, such as hotels and motels that are not associated with a service provider, are not subject to the associated requirements.

Chapter 56 of the Laws of 2017 further amended the Social Services Law by:

- Adding employees of publicly-funded emergency shelters for families to the list of individuals that are mandated to report, or cause to be reported, suspected incidents of child abuse or maltreatment concerning any child that comes before the employee in their official capacity.
- Adding prospective employees, prospective consultants, prospective volunteers and contractors of publicly-funded emergency shelters for families with children who have the potential for regular and substantial contact with children served by the shelter to the list of individuals who must be checked against the SCR for an indicated report of child abuse and maltreatment. Prospective employees, administrators, consultants, interns, volunteers, and contractors must also be checked against the Justice Center SEL which contains the names of individuals who have been found responsible for serious acts of abuse and neglect (“category one” cases) against service recipients of certain types of programs under the jurisdiction of the Justice Center.
- Requiring that every provider of services to a publicly-funded emergency shelter for families with children conduct a criminal history background check through DCJS for every prospective employee, prospective consultant, prospective assistant and prospective volunteer who will have the potential for regular and substantial contact with children served by the shelter, and to evaluate the result of such criminal background in accordance with the provisions of Article 23-A of the Correction Law and subdivisions 15 and 16 of section 296 of the Executive Law (Human Rights Law).

Please note that the potential for “regular and substantial contact” with children is not defined in the statute or regulations and it is at the discretion of the districts and the emergency shelter for families with children to individually evaluate the positions and potential type and frequency of interactions by persons in the qualifying roles. Districts and shelters should consider the potential duration of the contact, and role of the individual having contact with children, including whether children ever have contact with subject individuals outside of the presence of the children’s parent or guardian (See attached OCFS 1986 ADM-43, also available here: [86-ADM-43](#))

Additionally, while these requirements may apply to residential programs for victims of domestic violence which are regulated by the Office of Children and Family Services (OCFS), this directive does not apply to such programs and questions regarding those programs should be directed to OCFS.

IV. Program Implications

A. Mandated Reporters of Child Abuse and Maltreatment:

Effective July 19, 2017, all employees of publicly-funded emergency shelters for families with children, as defined above and that provides the services set forth in 18 NYCRR 901-1.1(a)(3), are mandated reporters of child abuse and maltreatment. As such, all employees must report, or cause to be reported, any suspected incidents of child abuse or maltreatment concerning any child that comes before the employee in their official capacity.

Reports of suspected child abuse or maltreatment must be made immediately -- at any time of the day and on any day of the week -- by telephone to the SCR mandated reporter line at **(800) 635-1522**. Within 48 hours after making a report to the SCR, the mandated reporter must complete a written report (attached and available here: [LDSS 2221A](#)) and submit that written report to the local child protective services where the child resides.

Each shelter must provide all existing and new employees information on recognizing the signs of child abuse and maltreatment and maintain a record that such information was provided.

B. SCR Checks:

Effective July 19, 2017, all publicly-funded emergency shelters for families with children, as defined above, must inquire of the OCFS SCR whether any prospective employee, consultant, volunteer and contractor who will have the potential for regular and substantial contact with children served by such shelter is the subject of an indicated report of child abuse or maltreatment prior to hiring or engaging the services of the prospective employee, consultant, volunteer and contractor. Prior to conducting an SCR check, the publicly-funded emergency shelter for families with children must notify the individual subject to the check that such inquiry will be made utilizing the attached LDSS 3371A form (also available here:

http://ocfs.ny.gov/main/documents/docs.asp?document_type=1&category_number=5).

These checks will be conducted through the OCFS SCR On-Line Clearance System (OCS).

If an applicant is found to have an indicated report of child abuse or maltreatment the provider must determine whether to hire the prospective employee, volunteer, consultant or contractor. An attempt must be made by the provider agency to obtain the report on file with the SCR, upon authorization of the applicant. An applicant who does not provide all necessary authorizations required to complete the SCR check, shall have his or her application denied.

Contents of the report from the SCR, as well as other factors, as set forth in guidelines referenced in Social Service Law § 424-a, (see also [86-ADM-43](#)), such as the following should be considered when making determinations on the course of action to be taken:

- The seriousness of the event involved in the indicated report.
- The seriousness and extent of any injury sustained by the child(ren) named in the indicated report.
- The documented harmful effect on or injury to the child(ren) as a result of the applicant's action or inactions and the relevant events and circumstances surrounding the actions.
- The ages of both indicated applicant and the child(ren) at the time of the occurrence of the child abuse or maltreatment.
- The elapsed time since the most recent occurrence of child abuse or maltreatment.
- The number and/or frequency of indicated reports of child abuse or maltreatment.
- The relationship of the indicated reports(s) of child abuse or maltreatment compared with the nature of the position for which the applicant is being considered.

- Any information produced by the applicant, or produced on his or her behalf, regarding rehabilitation. The following may be examples of evidence of rehabilitation:
 - The acts of child abuse and maltreatment apparently have not been repeated.
 - Evidence exists of actions taken by the person which show that he/she is now able to deal positively with a situation or problem that gave rise to the previous incident(s) of child abuse and maltreatment.
 - Professional treatment (e.g., counseling or self-help groups) has been successful.
 - The subject has been successfully employed in the child care field.

A record must be maintained of all these checks, regardless of the result, and be available for review by OTDA and the district. If a decision is made to hire or retain the services of an indicated applicant following review of the indicated report, the rationale for the decision must be documented in writing.

C. SEL Checks:

Effective July 19, 2017, all publicly-funded emergency shelters for families with children, as defined above, must also check any prospective employee, administrator, consultant, intern, volunteer and contractor who will have the potential for regular and substantial contact with children served by such shelter against the Justice Center SEL, prior to hiring or engaging the services of the prospective employee, administrator, consultant, intern volunteer or contractor. These checks will be conducted through the Justice Center SEL online web form.

If an applicant appears on the Justice Center SEL, the provider must determine whether to hire the prospective employee, administrator, consultant, intern, volunteer or contractor, utilizing the same criterion as for an indicated SCR check.

Similar to the SCR check, prior to conducting the SEL check the publicly-funded emergency shelter for families with children must notify, using the prescribed form, the individual subject to the check that such inquiry will be made. Additionally, a record must be maintained of all these checks, regardless of the result, and be available for review by OTDA and the district. If a decision is made to hire or retain the services of an applicant who is listed on the SEL, the rationale for the decision must be documented in writing.

D. Criminal Background Checks:

Effective July 19, 2017, all publicly-funded emergency shelters for families with children, as defined above, must perform a criminal history information check through DCJS for all prospective employees, consultants, assistants and volunteers who will have the potential for regular and substantial contact with children served by such shelter. These background checks will be conducted through the DCJS eJusticeNY Integrated Justice Portal, and requires submission of the applicants' fingerprints through DCJS's contracted services provider, which at this time is MorphoTrust USA. Where authorized by DCJS, a record must be maintained of each of these checks. If an applicant is found to have a criminal history, the shelter must determine whether to hire or retain the prospective employee, assistant, volunteer or consultant in accordance with the provisions of article

23-A of the Correction Law and section 296 of the Human Rights Law. Specifically, the provider should consider the following:

- The public policy to encourage employment of those with previous convictions.
- The specific duties and responsibilities necessarily related to the employment sought.
- The bearing, if any, the criminal offense, for which the person was previously convicted, will have on his/her fitness or ability to perform such duties or responsibilities.
- The time that has elapsed since the occurrence of the criminal offense.
- The age of the person at the time of the occurrence of the criminal offense.
- The seriousness of the criminal offense.
- Any information produced by the person, or produced on his/her behalf, in regard to his/her rehabilitation and good conduct.
- The protection of property, and the safety and welfare of specific individuals and the general public.

V. Required Action

A. Mandated Reporters of Child Abuse and Maltreatment:

All existing and new employees of publicly-funded emergency shelters for families with children, as defined above, must be notified by the shelter of their legal designation as mandated reporters of child abuse and maltreatment and be provided with written information on how to recognize the signs of child abuse and maltreatment. Each publicly-funded emergency shelter for families with children must document that all existing and new employees were provided this information and be able to demonstrate compliance with this requirement to OTDA and the district.

The attached OCFS *Summary Guide for Mandated Reporters in New York State* contains the necessary information on recognizing the signs of abuse and maltreatment, as well as information on how to make a report and the rights and responsibilities of mandated reporters and can be utilized to meet this requirement (also available here: [OCFS Summary Guide for Mandated Reporters](#)).

While specific training for mandated reporters is not required, OCFS does provide a free on-line training, available here: <http://www.nysmandatedreporter.org/>. It is strongly encouraged that all employees of publicly-funded emergency shelters for families with children complete this two-hour training.

B. SCR Checks

In order to access the OCFS SCR On-Line Clearance System (OCS), each publicly-funded emergency shelter for families with children must identify an agency liaison to

complete the checks and register this liaison with OCFS, by faxing the Agency Information Registration Sheet to OCFS at (518) 486.3424 (also available here: <https://www.justicecenter.ny.gov/sites/default/files/documents/OCS-registration.pdf>), including the agency Resource Identification Number (RID#). OTDA previously requested the names of these shelters and liaisons from the districts in order to generate the required RID# through OCFS's CONNECTIONS system.

Applicants will be required to provide their name and any maiden name or aliases, sex and their date of birth and the dates of birth for all other members of their households, as well as their current address and all former addresses for the past 28 years. This information must be entered into the OCS by either the agency liaison or the applicant themselves. SCR OCS check results are generally received within three to ten business days, however the results could take substantially longer. During the hiring process, publicly funded emergency shelters for families should encourage prospective employees, volunteers, consultants and contractors to respond timely to any correspondence received from the SCR.

A \$25 fee is required for every SCR check. Publicly funded emergency shelters for families with children are responsible for payment of this fee and may not require applicants to pay it. Shelters can include the costs within their operational budgets and may seek reimbursement for it. Payment may be made by check, money order or credit card. A data entry error on the part of the applicant or publicly funded emergency shelter that prevents the SCR check request from being processed will be removed from the system and a new request, and corresponding additional fee, must be entered.

Every provider must ensure the confidentiality of all records and information related to checks made through the SCR and access thereto. Therefore, it is recommended that all records obtained through the screening process be maintained in a separate, confidential file in the personnel office or other administrative office as appropriate.

C. SEL Checks:

In order to access the Justice Center SEL online form, each publicly-funded emergency shelter for families with children must identify an authorized staff person to complete these checks and submit the attached Authorized Person Designation Form to the Justice Center, including the shelter's Federal Employee Identification Number (EIN) (also available here: [JC Authorized Person Designation Form](#)). Within three business days the shelter will receive an email with a link to the SEL online form and instructions for completing these checks.

The social security number (SSN) or Alien Registration Number (ARN) of the prospective applicant is required to conduct the SEL check. Collection of the SSN or ARN is authorized by 14 NYCRR Part 702. If an applicant does not have an SSN or ARN, a request for the check must be done by completing the attached Request for Staff Exclusion List Check form (also available here: [SEL Staff Exclusion List Check](#)), and faxing the form to the Justice Center. SEL check results are generally received within two business days.

D. Criminal Background Checks:

In order to access the DCJS eJusticeNY Integrated Justice Portal to obtain criminal history record information, each publicly-funded emergency shelter for families with children must submit the attached Request for Access to Criminal History Record Information (also available here: [DCJS Request for Access to CHRI](#)). Upon approval, DCJS will prepare and submit to each provider a Use and Dissemination agreement outlining the terms and conditions of such access, which must be signed and returned to DCJS. At that time, DCJS will issue the shelter an ORI number, which is an agency identifier, and will be required when the applicant makes their fingerprinting appointment. The agreement will also detail additional requirements, including the designation of a Terminal Agency Coordinator (TAC) and background checks of TAC and other shelter staff who will have access to or will be reviewing the criminal history record information.

Shelters must inform applicants of the criminal background screening process and obtain the applicant's consent on the attached Shelter Criminal Background Check Consent Form. Upon receiving the signed consent, shelters should assist applicants with making appointments for fingerprinting through the MorphoTrust website (<https://uenroll.identogo.com>), or calling MorphoTrust USA at (877) 472-6915, or other designated provider, to find the nearest fingerprinting location. DCJS Criminal Background checks are generally received within one to two business days.

The required fee for a DCJS criminal background check is currently \$87 (subject to change). Publicly funded emergency shelters for families with children are responsible for payment of this fee and may not require applicants to pay it. Shelters can include the costs within their operational budgets and may seek reimbursement for it. Payment may be made by business check, money order or credit card. Shelters may establish an account with MorphoTrust whereby a credit card is charged when an applicant is fingerprinted (more information available here: https://www.identogo.com/uploads/general/NY_UEP_NCAC_FinalReview_10-28.pdf).

Each publicly-funded emergency shelter for families with children shall establish, maintain and keep current, among others, a current list of all employees, staffing assignments, roster of volunteers, assistants, consultants, names of all persons for whom a background check was submitted and the determination made as to whether to approve or deny, the position which is held, and any limitations placed on employment or service. Every shelter must ensure the confidentiality of all records and information related to criminal background checks obtained through DCJS and all such information must be marked "confidential" and maintained, where authorized by DCJS, in a separate, confidential file in the personnel office or other administrative office, as appropriate.

Please note that while a publicly-funded emergency shelter for families with children may have been doing checks previously, effective July 19, 2017, background checks (SCR, SEL and DCJS) must be compliant with the current statute and regulations. SCR database checks must be submitted via the OCS to the SCR; SEL checks must be submitted to the Justice Center via the online portal; and criminal background checks must be submitted to DCJS. Criminal background checks performed by the Office of Court Administration (OCA) or a private company are not compliant with the new statutory requirements. This may mean that a publicly-funded emergency shelter for families with children needs to modify current practice to meet the new statutory requirements.

VI. Systems Implications

Access to the OCFS OCS requires the use of Windows Operating System and Internet Explorer Version 6.0 or higher.

VII. Additional Information (Optional)

None.

VIII. Effective Date

This ADM is effective no later than July 19, 2017.

Issued By

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