



Office of Children and Family Services

Andrew M. Cuomo
Governor

52 WASHINGTON STREET
RENSSELAER, NY 12144

Sheila J. Poole
Acting Commissioner

Administrative Directive

Transmittal:	17-OCFS-ADM-15
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	October 25, 2017
Subject:	Relief from Duplicate Reports of Incidents to the Vulnerable Persons Central Register by Mandated Reporters
Suggested Distribution:	Directors of Social Services Voluntary Authorized Agencies Staff Development Coordinators Directors of Detention Programs Runaway and Homeless Youth Program Coordinators Family Type Home for Adults Coordinators
Contact Person(s):	See Section VI
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
13-OCFS-INF-05		18 NYCRR 433.3	SSL §§ 488, 491		

I. Purpose

The purpose of this Administrative Directive (ADM) is to notify those who are mandated to report to the Vulnerable Persons Central Register (VPCR), operated by the Justice Center for the Protection of People with Special Needs (Justice Center), abuse, neglect and significant incidents in programs operated, licensed or certified by the Office of Children and Family Services (OCFS) of the change in mandated reporter requirements.

II. Background

The legislation that created the Justice Center also created a new group of mandated reporters required to report suspected abuse, neglect, and significant incidents to the VPCR. Those mandated reporters to the Justice Center include any person employed by or volunteering at a residential program operated, licensed or certified by OCFS (except foster family boarding homes or residential programs for victims of domestic violence), as well as any consultant or contractor with such a program if they have regular and substantial contact with individuals who are cared for by the program. Mandated reporters to the Justice Center also include persons without a direct relationship with such programs. Those persons include physicians, mental health counselors, social services workers and others defined as human services professionals under section 488(5-a) of the Social Services Law (SSL).

Mandated reporters to the Justice Center are required to report allegations of reportable incidents (suspected abuse, neglect or significant incident) to the Justice Center's VPCR immediately upon discovery. Discovery occurs when the mandated reporter either directly observes the reportable incident, or when another person (including the vulnerable person) provides the mandated reporter with reasonable cause to suspect that a vulnerable person was subjected to a reportable incident.¹

Making multiple reports of the same incident can be time consuming and burdensome on limited resources for staff and provider agencies. Therefore, the Justice Center authorized the appropriate State Oversight Agencies (SOAs) to amend their incident reporting protocols, eliminating the requirement that mandated reporters make a report of an incident when they are aware that a report of that incident has already been made to the VPCR and that the registered report includes their name as a party with additional information.

On May 30, 2017, OCFS issued a memo entitled, "Changes to the Multiple Reporting Rule for Reportable Incidents to the Vulnerable Persons Central Register," to local district commissioners, voluntary agency executive directors, and Runaway and Homeless Youth residential providers.

On August 21, 2017, OCFS filed emergency regulations amending 18 NYCRR 433.3 to contain procedures and requirements consistent with guidelines and standards developed by the Justice Center and addressing incident management programs.

III. Program Implications

The changes to the requirements for reporting by mandated reporters to the Justice Center are necessary to further the legislative objective that vulnerable persons be safe and afforded appropriate care. These changes went into effect June 1, 2017.

Mandated reporters to the Justice Center as defined by SSL § 488 are not required to report a reportable incident to the VPCR when the mandated reporter has actual knowledge

¹ SSL § 491(1)(b).

that the incident has already been reported to the VPCR **and** the mandated reporter has been named as a person with knowledge of the incident in such prior report.²

“Actual knowledge” means the reporter either witnessed, read, or overheard the report being made **or** received a copy of the incident/confirmation number from the registered VPCR report **or** received other documentation from the person who made the report.

In addition to such confirmation of the report being registered by the VPCR, the mandated reporter to the Justice Center must have a reasonable basis to believe that they were named in the registered report as a person with information about the incident. This reasonable belief can come from witnessing, reading or overhearing the report that was made or by receiving some verbal or written assurance from the person who made the report.

It is in the best interest of mandated reporters to the Justice Center to document their knowledge of the report being registered and their belief that they were named in the report should they later be asked to explain the decision.

If the mandated reporter to the Justice Center has any doubt as to whether the report was made, or whether they were named in the report as a person with knowledge of the reportable incident, then the mandated reporter should report the incident to the VPCR. There is no penalty for multiple reporting even if the mandated reporter has actual knowledge of a duplicate report in which they are named as a person with knowledge of the incident.

IV. Required Action

Mandated reporters to the Justice Center who are employees, volunteers, consultants or contractors in residential programs under Justice Center jurisdiction that are operated, licensed or certified by OCFS, must comply with the respective statutes and regulations referenced in the sections above. This means mandated reporters are required to:

1. comply with the mandated reporter requirements regarding the duty to report incidents as established in SSL § 491(1)(b) and 18 NYCRR 433.3, which includes upon discovery immediately reporting a reportable incident, as defined in SSL § 488, to the VPCR **unless**:

- a. the mandated reporter has actual knowledge that the incident has already been reported to the VPCR; **and**
- b. the mandated reporter has been named as a person with knowledge of the incident in such prior report.³

2. continue to comply with mandated reporter requirements regarding the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) as established in SSL § 413 regarding suspected abuse or maltreatment by a parent or other person legally responsible for a child, or suspected abuse or maltreatment of a child in a day care setting.

² 18 NYCRR 433.3.

³ 18 NYCRR 433.3.

All OCFS staff, voluntary agency staff, and the staff of provider agencies under OCFS authority are still required to follow any applicable regulations and protocols for internal reporting and/or reporting to the SCR.

It is recommended that mandated reporters to the Justice Center document the basis for their decision not to make a report to the VPCR while following this administrative directive. Mandated reporters can do so via their agency's established protocols and procedures for documenting case activities. Such documentation is the best practice to avoid a possible assertion that the mandated reporter failed to report a reportable incident to the VPCR.

V. Systems Implications

None.

VI. Contacts

Any questions concerning this release should be directed to the appropriate regional office, Division of Child Welfare and Community Services:

Buffalo Regional Office-Amanda Darling (716) 847-3145

Amanda.Darling@ocfs.ny.gov

Rochester Regional Office-Karen Lewter (585) 238-8201

Karen.Lewter@ocfs.ny.gov

Syracuse Regional Office-Sara Simon (315) 423-1200

Sara.Simon@ocfs.ny.gov

Albany Regional Office-John Lockwood (518) 486-7078

John.Lockwood@ocfs.ny.gov

Spring Valley Regional Office-Yolanda Désarmé (845) 708-2498

Yolanda.Desarme@ocfs.ny.gov

New York City Regional Office-Ronni Fuchs (212) 383-1676

Ronni.Fuchs@ocfs.ny.gov

Native American Services-Heather LaForme (716) 847-3123

Heather.LaForme@ocfs.ny.gov

VII. Effective Date

The requirements of this ADM became effective June 1, 2017.

/S/ Thomas R. Brooks

Issued By:

Name: Thomas R. Brooks

Title: Deputy Commissioner

Division/Office: Strategic Planning and Policy Development