



TO: Executive Directors of Voluntary Provider Agencies  
Directors, Developmental Disabilities Regional Offices  
Directors, Developmental State Operations Offices  
Provider Associations

FROM: Megan O'Connor-Hebert, Deputy Commissioner  
Division of Quality Improvement

SUBJECT: Change in requirements concerning checks of the Statewide Central Register of Child Abuse and Maltreatment

DATE: June 27, 2013

The documents listed below, and discussed in this communication are available from the OPWDD website; please use this link to access the following documents:

[http://www.opwdd.ny.gov/opwdd\\_resources/incident\\_management/justice\\_center/Change\\_in\\_Requirements](http://www.opwdd.ny.gov/opwdd_resources/incident_management/justice_center/Change_in_Requirements)

- Acknowledgement by Applicant of the Process Whereby the Applicant's History in Relationship to Possible Child Abuse or Maltreatment is Checked at the State Central Register;
- Notice of Social Service Law 424-a Procedures for Volunteers;
- Notice of Social Service Law 424-a Procedures for Employees;
- Letter of Denial;
- OCS Registration Packet, and;
- A PowerPoint presentation titled "Online Clearance System; Desk Guide".

**EFFECTIVE DATE: June 30, 2013**

**THIS COMMUNICATION PERTAINS TO ALL AGENCIES CURRENTLY OPERATING CERTIFIED PROGRAMS.**

**Purpose:** This communication contains information regarding new requirements concerning requests for checks of the Statewide Central Register of Child Abuse and Maltreatment (SCR).

In addition, information is provided about using the Office of Children and Family Services (OCFS) Online Clearance System (OCS) to request the SCR checks.

Information contained in this communication includes updated information and process and supersedes these parts found in OPWDD's Administrative Memorandum No. 98-02.

**Background:** The Statewide Central Register of Child Abuse and Maltreatment maintains records of "indicated" reports of child abuse and maltreatment. If an agency requests an SCR check it will receive information from SCR about "indicated" reports concerning the applicant.

For many years, programs that are certified or operated by OPWDD have been required to request SCR  
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checks for applicants with the potential for regular and substantial contact with children.

**Effective June 30, 2013, the Protection of People with Special Needs Act (PPSNA, or Justice Center law) changed requirements concerning requests for SCR checks in the Social Services Law (SSL Section 424-a). (The PPSNA also created the Justice Center and changed other requirements for background checks.)**

OPWDD requirements concerning SCR checks are also changing effective that same date.

**The new law and regulations apply the requirements for SCR checks to applicants who serve individuals of any age (instead of just to applicants who serve children).**

**Requirements for SCR checks effective June 30, 2013:**

SCR checks are required for the following services in the OPWDD system:

- All state-operated services (whether or not the program is certified),
- All certified facilities operated by voluntary providers, and
- All family care homes (both state-sponsored and agency-sponsored).

Note that voluntary agencies operating only non-certified services are **not** required and are not authorized to conduct SCR checks. Non-certified services include, but are not limited to, hourly community habilitation, supported employment, Medicaid Service Coordination, and family support services.

The new requirements to conduct SCR checks apply only to individuals who are hired or begin affiliation with the agency on or after June 30, 2013.

The following individuals must be checked:

- Employees who will have regular and substantial contact with individuals receiving services (both children and adults);
- Employees of contractors which provide goods and services to programs certified or operated by OPWDD, who will have regular and substantial contact with individuals receiving services;
- Consultants, contractors, interns and volunteers of programs which are certified or operated by OPWDD, who will have regular and substantial contact with individuals receiving services;
- Family Care providers and adults who live in the Family Care home (age 18 years or older); and
- Family Care respite/substitute providers and adults who live in the Family Care respite/substitute provider's home.

**Agencies may not permit any individual referenced above to have unsupervised contact with individuals receiving services until the results of the SCR check are received by the agency.**

**What to do when an individual is the subject of an indicated report:**

When an applicant checked through the SCR is found to be the subject of an indicated case of child abuse and maltreatment, notification will be sent by the SCR to both the provider agency and the applicant. The notification will not provide information other than the fact the applicant is found to be the subject of an indicated report.

When the notification indicates that the applicant is a subject of an indicated case of child abuse or maltreatment, an attempt must be made by the provider agency to obtain the report on file with the SCR. This report, however, will only be released upon authorization of the applicant.

After reviewing the report, the provider agency must determine whether the applicant should be retained or whether administrative action (e.g., termination, disciplinary action, reassignment, transfer) should be taken. Contents of the report from the SCR, as well as other factors 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, in regard to rehabilitation.
- In an ICF/DD, compliance with 42 CFR 483.420 (d)(1)(iii).
- The length of employment as well as performance evaluations (for those who are currently employees of the provider agency).

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.

If a decision is made not to hire or retain the employee or any other indicated applicant based on the information contained in the SCR report, the applicant must be informed in writing whether the decisions were based in whole or in part on such indicated report, and the factors that led to the conclusion of unsuitability. The applicant must also be informed that he or she can seek a review of the report.

There are four documents which pertain to this portion of the communication; a letter of denial, a Notice of Social Services Law 424-a for Volunteers, a Notice of Social Services Law 424-a for Employees informing them of the SCR process and an Applicant Acknowledgement of the SCR process; which may be used or serve as a guide to State and Voluntary operated providers.

### **Confidential Storage and Access to Records:**

Every provider agency must ensure the confidentiality of all records and information related to background checks made through the SCR, and access thereto. Therefore it is recommended that all records be maintained in the personnel or other designated administrative office; or for Family Care, in a secure area under the auspices of the Family Care Coordinator.

Materials obtained through the screening process must be maintained in a separate, confidential file in the personnel office or other administrative office as appropriate. State law requires that individual given access to child abuse or maltreatment report data shall not divulge or make public any identifying information. Any person who willfully permits or encourages the release of such data, with identifying information, to persons or agencies not authorized by the Child Abuse Prevention Act is subject to prosecution for a Class A Misdemeanor.

In cases where materials related to the checking process are required to be transmitted, the material must be addressed to an individual rather than an office or location and must be sent in a sealed envelope marked, "Confidential: To Be Opened Only by Addressee."

**Process for requesting the SCR check:**

The process for requesting SCR checks is established by OCFS. In order to request SCR checks, agencies will need to register with the Online Clearance System (OCS). If your agency is currently using the OCS to make inquiries of the SCR, you do not need to attain a new user name or password.

Agencies in the OPWDD system that were subject to prior requirements to conduct SCR checks should already be registered with OCS. **Agencies in the OPWDD system that have not previously been subject to requirements to conduct SCR checks will need to register with the Online Clearance System (OCS). OPWDD recommends that these agencies register as soon as possible in order to be ready to conduct an SCR check when needed.**

Once an agency registers with OCS, it will obtain an OCS user name and password. It is necessary to have a user name and password in order to request SCR checks. Information on how to register can be found on the document titled "OCS Registration Packet." User name and password instructions are on the first page of this document. This packet provides an overview and detailed instructions for obtaining access to the OCS and provides contact information to the SCR for any difficulties encountered during this process.

An additional document to providers is a Power Point Presentation titled "Online Clearance System, Desk Guide." This document provides a step-by-step overview of using the OCS. If further guidance is needed, providers may access an OCFS video link found at [www.ocfs.state.ny.us.gov](http://www.ocfs.state.ny.us.gov) which provides video instruction on the use of the OCS. If using the online video, please type "online clearance system" and click on the link.

Note that the provider requesting the SCR check will need to pay a \$25.00 fee to OCFS for each SCR check requested (except for SCR checks for volunteers). There is no charge for volunteers.

For any questions about requirements concerning SCR checks, please contact the Division of Quality Improvement at (518) 474-3625, or email questions to [quality@opwdd.ny.gov](mailto:quality@opwdd.ny.gov).

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OCFS