

Questions & Answers for Stakeholder Call on March 24, 2020

The following is a list of questions submitted to OCFS by select members of the child care community for responses prior to the Stakeholders call at 2pm on March 24, 2020. The responses provided at the time of the meeting may change based on new information and directives. The COVID-19 emergency is a rapidly evolving situation. OCFS will continue to provide up to date guidance as it is available. Please check our website regularly.

OCFS Guidance

Q. Will OCFS release future FAQ/update documents in languages other than English?

A. Yes FAQ and update documents will be translated into Spanish, and Chinese simplified.

Q. How would programs limit group sizing and attempt to follow spacing recommendations, if programs will be allowed to increase the number of children that may be served with a waiver?

A. Limit group size to ten, can have increased capacity in multiple groups. The Centers for Disease Control, in its guidance on events and mass gatherings recommends group size to ten or fewer and therefore we ask providers to reconfigure space to limit overall density of rooms to ten or fewer children.

Q. How do child care programs maintain a perimeter of 6 feet while caring for them?

A. Adults must be in close proximity to young children in order to provide proper care. It is important to take universal precautions. Ensure handwashing strategies are being followed including washing with soap and water for at least 20 seconds. When soap and water are not available individual wipes may be used in combination with hand sanitizer. Also, be sure to perform routine substantial cleaning of the childcare program.

Q. When will the Regional Offices re-open?

A. This is not known at this time.

Q. How is OCFS handling complaints?

A. It is the expectation that complaints will be handled as they have been. Regulators are investigating all complaints of serious and imminent nature, however, during this time, are asking the screening questions to limit risk of exposure.

Q. What is OCFS doing to coordinate New York City-specific support for providers who have chosen to stay open?

A. OCFS is in regular contact with NYC DOHMH to provide clarification on OCFS expectations and to address NYC specific issues. OCFS also intends to continue to issue ongoing guidance to the field to provide updated information to the provider community.

Q. Can child care licensing requirements be relaxed for families in receipt of preventive and protective services due to an anticipated reduction in licensed child care capacity as a result of program and provider closures?

A. A waiver can be requested to allow children from families in receipt of protective or preventive services to be cared for by a legally-exempt provider.

Program Closures

Q. Is NY considering directing the closure of all child care centers, except for those authorized, and properly supported (with necessary equipment and health monitoring) to safely provide care during this emergency, like Massachusetts, Vermont, and several other states? Why, or why not?

A. No. Governor Cuomo has classified child care as an essential service. In regard to family choice, we do not have centralized child care centers that only serve children of first responders. Our child care programs serve all children.

That said, programs that do not feel safe or comfortable can close. For those who chose to remain open, OCFS is trying to support these programs by expediting the onboarding of staff, connecting them with families to support their enrollment, as well as assisting with the delivery of hand sanitizer and other essential supplies.

Q. Is there any way OCFS could produce something indicating child care is an essential service and programs are not being closed by the state at this time? People are assuming they are since schools, colleges, etc. have all closed. We are putting out information locally, but perhaps a statewide PSA would calm some of the confusion families are having about the availability of child care. In fact, most of our providers and centers have many, many openings as a result of the executive orders. Some have closed and others may have to due to a lack of children.

A. OCFS has issued and posted many guidance documents reiterating to parents, and child care programs that child care programs are NOT being ordered to close. Informational letter 20 OCFS INF 08, the FAQ document for child care programs, and multiple Dear Provider letters all provide in relevant part:

Child care is considered an essential service. In a time of crisis, other essential professionals must be able to go to work and have safe and suitable child care available to their children. If you have openings in your program, please use those openings to serve the children of employees who are unable to work from home and must continue to report to their work location. Please reach out to your local Child Care Resource and Referral agency and make them aware of any slots you have available. Governor Cuomo and his administration consider child care to be an essential function critical to enabling parents to go to work.

Q. What guidance can OCFS provide for the placement of a child needing child care because a parent is quarantined that does not place additional children at risk?

A. As indicated in the 3/11/2020 Dear Provider Letter: if a parent is quarantined, the child should be quarantined with the parent for the duration of the quarantine

Q. What if a parent of a child in the program is quarantined?

A. In the event a parent of a child in your program must be quarantined, advise the parent they cannot enter the child care program for any reason, including picking up their child. If the parent is exhibiting signs of illness or has been tested and is positive for the virus, they must utilize an emergency contact authorized by the parent to come pick up the child. If the parent is being quarantined as a precautionary measure, without symptoms or a positive test, child care staff should walk out or deliver the child to the parent outside the child care building. The child must not return to the child care program for the duration of the quarantine.

Q. What is the interpretation for child care services? Does this apply to Boys & Girls Clubs in general? Or is it only licensed child care? Also, where does 21st Century fit?

Yes, any licensed/registered child care program that is providing child care is considered an essential service. For the duration of the emergency, activities such as child care are essential but recreational activities basketball leagues etc. would not be considered child care.

Subsidy/Cost

Q. Centers and child care programs cannot afford to enroll children of First Responders and Medical staff without parents paying for child care as the child care programs need to pay their staff and fixed costs. Now that only essential workers are working is there a plan to allow child care subsidies for First Responders and Medical Staff even if they are over income?

A. Currently, districts can request a waiver to raise eligibility levels up to 85% of the state median income (SMI). Many families, who were not previously eligible will qualify if local districts have selected this option. OCFS is in consultation with ACF to investigate the possibility of exceeding the federal cap of 85% SMI.

Q. Family co-pays should be waived but provider reimbursement should be increased to make up for that lost income. This is also allowed under the federal emergency regulations. Can this be guaranteed, and the state cover the increased costs?

A. If a district elects to waive family share, the full rate is payable by LDSS. Districts that need assistance in adjusting settings in CCTA should contact <mailto:ocfs.sm.districtsupport.subsidy@ocfs.ny.gov>.

Q. Can providers be granted (and thus be reimbursed for) 30 days of absence for March and April for each child enrolled. Federal emergency regulations would seem to allow this, but counties might need State funds to be able to afford to cover this. Can OCFS guarantee that? This would eliminate the need to investigate every family who keeps a child home during the pandemic.

A. If a district elects to, they can be approved to pay for up to 30 days of closures or absences for subsidized children. Of those districts that have submitted, the range of days they will pay for is between 14- 30 days, and the majority have selected 30 days. One clarification is that districts can pay for any absence, not just when a child or parent is under quarantine as all absences are now considered COVID-19 related. There is not currently any additional funding to support this waiver request however, districts may utilize roll-over funds.

Q. We are hearing that some providers still have not received reimbursement checks for February. This is critical, always, but particularly in this crisis. Can OCFS ensure that these checks will be issued this week?

A. LDSS are encouraged to pay providers as quickly as possible. OCFS cannot mandate faster payment but is encouraging it.

Q. The Governor has expanded eligibility for child care subsidies. Does this change any of the processes under which a family applies for a subsidy?

A. No- an application is still required in order for a family to be determined eligible for child care assistance.

Q. Can paper/mail documentation be prohibited for an application submitted by a quarantined parent?

A. No, however alternative methods such as fax and e-mail can be encouraged. Overall, basic protective measures should be considered when handling any incoming correspondence that arrives via paper or mail.

Supplies

Q. OCFS March 19, 2020 memo directs providers to contact regional offices if they are in need of supplies such as gloves. Can OCFS send providers a list of available supplies?

A. OCFS is working diligently to locate supplies, but because of the COVID-19 outbreak they are unavailable. Please contact regulator with what supplies you are looking for and OCFS will try to coordinate helping you receive it.

Special Education/Health Needs

Q. Are therapists allowed in programs during this time?

A. Yes Therapists who will be coming in to provide services to children who remain in care are Allowed but programs are encouraged to utilize the screening questions regarding travel, exposure to COVID-19, and signs of illness before allowing anyone into the program.

Q. Have there been any discussions regarding programs accepting children that may require medications for asthma, allergies, etc. How would these children be identified? Would programs need to receive Child in Care Medical Statements, medication consent forms, etc.?

A. Ideally yes. Licensed/registered programs should maintain required forms to the extent this is possible. If the parent is able to provide a copy of their child's current medical etc. these forms should be utilized. In the absence of this, the emergency reservation form can be utilized for the duration of the COVID-19 emergency.

Q. Is there a plan on how these programs would receive training/know how to properly administer these medications?

A. Only trained staff, parent, or a relative within the third degree of consanguinity should administer medication.

Staff

Q. We are not currently offering programs at any of our registered facilities however if we were asked to assist with providing child care would we be able to relocate staff from one licensed facility to another licensed facility without the waiver to associate staff with each site? Would they still be asking for medicals?

Executive Order 202.5 provides that certain background check requirements are waived so that teachers, school-related personnel, employees at health care facilities, and others with child care or education experience can begin work immediately during the temporary emergency basis to ensure adequate supervision after a criminal history review. Additionally, other proposed guidance reviewed over the weekend stated programs would be required to conduct the NYS SOR check and notified programs that the CBC must still be done but not before beginning at the program due to this emergency.

Pop-Up Programs/School Closures

Q. When addressing the needs of front line and essential workers, are counties and school districts assessing and utilizing available current providers before creating new child care centers or hiring new staff from outside the system?

A. Yes, OCFS is committed to supporting our licensed and registered programs. In all guidance issued, OCFS schools, counties, and hospitals were all told to contact their CCR&Rs to find available capacity prior to setting up their own pop-up program. OCFS has been consistent in this messaging.

Q. Is this a voluntary request or a mandate?

A. The mandate was that districts submit plans regarding how they will ensure children have access to meals, remote learning, and child care.

Q. A majority (95%) of the school districts in Dutchess and Putnam County have not set up or have plans to open a daycare on school grounds. When do they need to have these plans finalized and will the CCR&Rs be informed so that we can refer parents to these sites?

A. Schools were supposed to submit plans by Friday. OCFS will share with CCR&R when received.

Q. If a school opens a daycare for essential workers is the care provided free of charge?

A. The school district will decide individually.

Q. If the school district does not open up and relies on private daycares to watch the children of essential workers is their care then paid for by the school district?

A. That is a decision by the district. OCFS programs are not expected to serve children for free.

Q. With so many districts not complying, and many daycares closing where are the children of essential workers supposed to go?

A. Families in search of care should contact their CCR&Rs to find available care.

Q. Programs that are being asked by school districts to serve essential workers – how are they being paid? They are being told different things, from usual funding (if UPK) to they must volunteer to it's not yet known

A. No OCFS programs must volunteer for schools.

Q. How can CCR&Rs learn of SED policy/procedure changes sooner

A. OCFS will notify CCR&Rs.

Q. May we have a list of all school district closures?

A. All schools closed effective March 18, 2020.

Q. Has CCR&R info been shared with the school districts?

A. Yes, was in NYSED guidance.

Financial Relief:

Q. Is there any financial help for providers if they have to close, either because families are keeping their children home or because their spaces were located in schools?

A. OCFS is working on this, whether through contract amendments for SACC programs, or more flexible absence policies for subsidy eligible families.

Q. Parents want to know how they are supposed to afford paying for a closed provider and a new one if they have to continue working?

The New York State (NYS) Office of Children and Family Services (OCFS) does not have jurisdiction over the business practices of child care programs. This includes the collection of fees and tuition. At the time of enrollment, the parent and child care program establish this agreement. The COVID-19 outbreak is unprecedented, and the situation is rapidly evolving. While NYS has been granted the authority to relax selective regulatory requirements to better serve children and families, tuition payments remain outside the realm of our jurisdiction.

Contracts:

Q. Will OCFS continue paying contracts for Advantage After School Programs and Empire State After School Programs for programs that are closed due to COVID-19? How will OCFS take COVID-19 into consideration for deliverables for Advantage After School Programs and Empire State After-School Programs that can no longer be met?

Can providers be reimbursed for services related to COVID-19 that are outside of their current contracts for Advantage After School Programs and Empire State After-School Programs? If providers are now offering full-day programming rather than part-day, is additional funding available to support the extended hours?

When will communication be provided to Advantage After School Programs and Empire State After-School Programs grantees that need to be making immediate decisions regarding continuing to pay their staff or laying off staff due to lack of funds?

How is OCFS coordinating with DYCD and NYSED around consistent policies for afterschool program providers during COVID-19? How are Advantage After School Programs and Empire State After-School Programs expected to provide child care for essential workers during COVID-19? If they are expected to do so, how will the safety of their staff be assured? What considerations are made for part-time staff without access to health insurance? Will OCFS allow providers with OCFS contracts including Advantage After-school and Empire State After-School Program that are operating in school buildings that are closed to continue to be reimbursed under their contract? Are there options for alternative work plans such as telephone check-ins with families or distance learning that providers can submit to OCFS?

A. OCFS understands these questions are of great concern to the field. We are working to provide relief in these areas but cannot give a definite response at this time.

Q. Is OFCS continuing to register contracts?

A. Yes.

Q. How will the milestone requirements be handled?

A. OCFS will work with the CCR&Rs to adjust milestones as necessary on their base CCRR contracts.

Q. Can on-line trainings qualify for ITA milestones?

A. Yes

Q. What is the timing for the execution of the ITMH contracts?

A. These contracts are going to OSC for approval. We will work with OSC to expedite approval.

Q. Can the period of emergency be exempted from the Improper Payment Audit?

A. OCFS will discuss this with the federal Office of Child Care to see if they will allow it.

Background Checks:

Q. Can providers during this period submit for SCR clearances through OCFS instead of going through Comprehensive Background Checks? Most local Health Department offices are closed, and providers may need to receive SCRs for staff doing emergency work such as staff in community centers who may be temporarily deployed to a school based location.

A. Programs can utilize the waiver and emergency attestation for employment for the duration of the emergency. The program must complete a Sex Offender Registry check, but not Staff Exclusion List or Statewide Central Registry check for the duration of the COVID-19 emergency.

Q. In the interest of the health and safety of fingerprinters and their clients, can fingerprint requirements be waived during the pandemic?

A. Yes, were waived in Executive Order 202.5 OCFS requires completion of the following activities by the child care program if the program wishes to use the new onboarding process. These actions must be completed for OCFS licensed/registered and legally-exempt child care programs:

1. Complete and submit the OCFS Waiver Request Form, OCFS – 4887, to your Regional or Enrollment Office requesting to waive the Comprehensive Background Check and pre-service health and safety training requirements. The waiver request must list all of the employees in the program for which the comprehensive background checks and health and safety training are being waived, and include their full name and date of birth. We are also strongly recommending that the submitter also include an email address with the waiver request, to support prompt and expedited communication during the emergency. The waivers will be reviewed and approved on a case-by-case basis and must be maintained onsite at the program for their approved duration.

a. The NYC Department of Health and Mental Hygiene is in the process of establishing a dedicated email mailbox for the submission of waiver requests. Licensed/registered programs located in NYC should submit their waiver requests via email to cbcwaivers@health.nyc.gov.

Complete an online search of the NYS Sex Offender Registry for each new employee being hired. This can be done by going to <https://www.criminaljustice.ny.gov/nsor/>.

Yes, fingerprint requirements were waived in Executive Order 202.5 This information can be found in Information Letter 20 OCFS INF 08. Programs must utilize the emergency employment attestation and waiver process for the duration of the COVID-19 emergency.

Training

Q. Can programs/providers receive training credits for new on-line trainings that we develop and if so, what would be required on our part?

A. OCFS has a policy regarding distance learning. Any organization seeking to develop and provide distance learning training should follow the guidelines established in the policy. OCFS believes that we can continue to support online training opportunities consistent with the Distance Learning policy. During the COVID-19 emergency OCFS is not expanding online training offerings, we are simply exploring if an online option for courses already in process or scheduled to start in next few weeks so they can continue without disruption. A survey has been developed to assist with evaluation. Any requests can go to the following email box. EIP-TO@albany.edu

DOH

Q. Is there clear guidance from NYS DOH that all local DOH offices are following with regard to child care? If so, could that be shared? If not, could that be developed? The guidance given by our DOH is getting better but has not always been clear or uniform:

- **For example, two programs had a staff member with a positive case, one program was told to close for 14 days & the other was told they could stay open.**
- **Some programs that have had direct exposure &/or known positive cases were not contacted by DOH.**

A. Programs should refer to the FAQ for providers that directs programs about possible exposure. OCFS will share this request with DOH.

Q. Can DOH be instructed to ask individuals with positive cases or known exposure to ask if they have children attending child care. In one local case a father had tested positive and was told to quarantine, which both parents and school age children did but they continued to send the 2 year old to child care.

A. Programs should refer to the FAQ for providers letter that directs programs about possible exposure. OCFS will share this request with DOH.