

**Abuse and Maltreatment Allegations Against ACS Employees
or Against Persons Associated with ACS Employees**

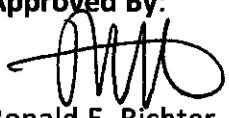
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Related Laws: NA	Children's Services Divisions/Provider Agencies: All Divisions	Contact Office /Unit: Employment Law Unit	
Supporting Regulations: NA	Supporting Case Law: NA		
Bulletins & Directives: NA	Related Policies: NA	Supersedes: NA	
Related Forms: Special e-Bulletin from Deputy Commissioner - General Counsel Joseph Cardieri, Tuesday, December 16, 2008 (attached)			
SUMMARY: When allegations of abuse or maltreatment are made against ACS employees or certain persons associated with ACS employees, it is the responsibility of the Division of Child Protection Office of Special Investigations to conduct the child protective investigations and the responsibility of the Office of the General Counsel Employment Law Unit to counsel Deputy Commissioners regarding interim measures and disciplinary action if any are to be taken. This policy is intended to define responsibilities in these circumstances and to provide guidance and clarity to all divisions and program areas that may be involved.			
SCOPE: This policy applies to all ACS staff.			

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I. Purpose

When allegations of abuse or maltreatment are made against ACS employees or certain persons associated with ACS employees, it is the responsibility of the Division of Child Protection Office of Special Investigations to conduct the child protective investigations and the responsibility of the Office of the General Counsel Employment Law Unit to counsel Deputy Commissioners regarding interim measures and disciplinary action if any are to be taken. This policy is intended to define responsibilities in these circumstances and to provide guidance and clarity to all divisions and program areas that may be involved.

II. Definition of "Persons Associated with ACS Employees"

- A. Non-Division of Child Protection Employees:** With respect to ACS employees who are NOT assigned within the Division of Child Protection ("DCP"), "persons associated" with such ACS employees shall be defined as all persons residing in the home of the ACS employee.
- B. Division of Child Protection Employees:** With respect to ACS employees who ARE assigned within DCP, "persons associated" with such ACS employees shall be defined as (1) all persons residing in the home of the employee, AND (2) the following relatives of the ACS employee: spouses, ex-spouses, parents (including biological, step, or adoptive), grandparents, siblings, children (including biological, step, or adopted), and significant others.
- C.** A more expansive definition of "persons associated with ACS employees" is applied to DCP employees because DCP employees work in the offices where child protective investigations are being conducted, have daily interactions with Child Protective Specialists ("CPS") that conduct these investigations, and have significant familiarity and more routine contact with the systems in which these investigations are documented; therefore, the potential conflict of interest is greater and more proximate when the person is associated with an ACS employee who is assigned within DCP.

III. The Responsibilities of the DCP Borough Offices

A. Immediate Transfers:

- 1. If during initial screening, a Borough Office Applications staff member determines that a New York State Central Register ("SCR") report or a Court Ordered Investigation ("COI") alleges abuse or maltreatment against an ACS employee or a person associated with an ACS employee, the Applications staff member shall immediately notify his/her supervisor and Applications Manager.

2. The Borough Office Applications Manager shall in turn ensure that the case is immediately marked "sensitive" in Connections and will contact the DCP Office of Special Investigations ("OSI") Applications Manager and transfer the case directly to OSI for investigation. The Borough Office Applications Manager shall also notify his/her Deputy Director, the First Deputy Director, and the Borough Commissioner to ensure that the Borough Office Senior Executive Leadership is informed and aware of the case.
3. The OSI Applications Manager shall immediately notify the OSI Deputy Director and OSI Assistant Commissioner of the receipt of these cases.
4. The Borough Commissioner shall immediately notify the OSI Assistant Commissioner of the case transfer in writing and copy the DCP Deputy Commissioner.

B. Transfers During Investigations:

1. If during an investigation, a Borough CPS determines that an SCR or COI alleges abuse or maltreatment against an ACS employee or a person associated with an ACS employee, the CPS shall immediately notify his/her CPS Supervisor and Child Protective Manager.
2. The Child Protective Manager shall in turn ensure that the case is immediately marked "sensitive" in Connections, contact the OSI Applications Manager, and transfer the case to OSI immediately. The Child Protective Manager shall ensure that all investigation notes are fully documented in Connections by the CPS and CPS Supervisor prior to the transfer of the case to OSI. The Child Protective Manager shall also immediately notify his/her Deputy Director, First Deputy Director, and the Borough Commissioner of the case.
3. The OSI Applications Manager shall immediately notify the OSI Deputy Director and OSI Assistant Commissioner of the receipt of these cases.
4. The Borough Commissioner shall immediately notify the OSI Assistant Commissioner of the case transfer in writing and copy the DCP Deputy Commissioner.

C. Exception for Family Assessment Response Cases:

Cases that are assigned in Family Assessment Response ("FAR") units that involve an allegation of abuse or maltreatment against an ACS employee or a person associated with an ACS employee will stay in the FAR unit if the subject parent/caretaker chooses the FAR track. If the subject parent/caretaker opts out of FAR, the case is to be transferred to OSI in the manner described in the sections above.

IV. The Responsibilities of the Office of Special Investigations

- A. Upon OSI receiving notification of an SCR report or a COI that alleges abuse or maltreatment against an ACS employee or a person associated with an ACS employee, the Assistant Commissioner of OSI shall provide written notification to the Deputy Commissioner of the program area where the employee is assigned ("Program Area Deputy Director"), that Deputy Commissioner's designees, and the Director of the Employment Law Unit ("ELU"), and will copy the DCP Deputy Commissioner and the Office of General Counsel ("OGC") Deputy Commissioner.
- B. In any case in which OSI is conflicted (e.g., the ACS employee is assigned to OSI), the child protective investigation will be conducted by the DCP Borough Office for the borough in which the person suspected of abuse or maltreatment resides.
- C. When OSI has concluded its child protective investigation, the OSI Assistant Commissioner will report the determination of the investigation in writing to the Program Area Deputy Commissioner, the Director of ELU, and the OGC Deputy Commissioner, and will copy the DCP Deputy Commissioner.

V. The Responsibilities of the Employment Law Unit

- A. Upon receiving notification from OSI of an SCR report or COI that alleges abuse or maltreatment against an ACS employee or a person associated with an ACS employee, the ELU Director and the Program Area Deputy Commissioner will discuss what if any interim measures regarding the ACS employee should be taken pending the outcome of OSI's investigation. Such measures may include suspension or reassignment from sensitive work. A decision to suspend or transfer on an interim basis shall be made within 72 hours of notification from OSI.
- B. ELU shall: 1) review the basic Personnel information to determine the subject's civil service status; 2) obtain the subject's prior disciplinary history; and 3) if the SCR report is indicated or the case is filed in Family Court, review OSI's child protective investigation findings.
- C. ELU will make a recommendation as to whether or not disciplinary measures are warranted after reviewing the above materials. The ELU Director, the Program Area Deputy Commissioner, and the OGC Deputy Commissioner will consult with each other on what disciplinary measures will be taken. ELU will draft the charges against the ACS employee or will recommend summary action to the Assistant Commissioner of Personnel, if appropriate, when the subject is on probationary status or is otherwise an at-will staff member.
- D. Failure of an ACS employee to comply with OSI service recommendations may be taken into consideration in conjunction with the totality of the case circumstances in determining appropriate disciplinary response to employee conduct alleged in the SCR

report which otherwise constitutes employee misconduct. Disciplinary action will not, however, preclude ACS from pursuing other legal avenues to ensure the safety of the children named in the report. In the event that the report is indicated, the ELU Director, in consultation with the Program Area Deputy Commissioner and the OGC Deputy Commissioner, will also determine whether New York Social Services Law requires the employee's permanent removal from his/her normal duties or whether the employee may resume some or all of those duties.

VI. The Responsibilities of the Program Area Deputy Commissioner

- A. If a Deputy Commissioner learns of an SCR report or a COI alleging abuse or maltreatment against an employee in his/her program area or a person associated with an ACS employee in his/her program area, immediate notice must be given to the OSI Assistant Commissioner and ELU Director in writing and copying the DCP Deputy Commissioner and the OGC Deputy Commissioner.
- B. Upon receiving notification from OSI of an SCR report or COI alleging abuse or maltreatment against an ACS employee or a person associated with an ACS employee, the Program Area Deputy Commissioner and the ELU Director will discuss what if any interim measures should be taken pending the outcome of ELU's investigation regarding the ACS employee. Such measures may include suspension or reassignment from sensitive work. A decision to suspend or transfer on an interim basis shall be made within 72 hours of notification from OSI.
- C. The Program Area will request the assistance of the Office of Personnel if the Program Area Deputy Commissioner and the ELU Director decide that it is necessary that the ACS employee's CONNECTIONS access or other related computer access be restricted.
- D. The Program Area Deputy Commissioner will determine whether or not the ACS employee, if the subject of an allegation of abuse or maltreatment, should be removed from all contact with children and from all work that is privileged and/or confidential. If removed, the ACS employee will be given administrative work that is in-title; however, no change in duties is necessary if the ACS employee does not otherwise have contact with children or perform work that is privileged and/or confidential.
- E. After ELU makes a recommendation as to whether or not disciplinary measures are warranted, the ELU Director, the Program Area Deputy Commissioner, and the OGC Deputy Commissioner will consult with each other on what disciplinary measures will be taken.
- F. In the event that the report is indicated, the Director of ELU, in consultation with the Program Area Deputy Commissioner and the OGC Deputy Commissioner, will also determine whether New York Social Services Law requires the employee's permanent

removal from his/her normal duties or whether the employee may resume some or all of those duties.

VII. The Responsibilities of the Office of the General Counsel

- A. After ELU makes a decision as to whether or not disciplinary measures are warranted, the ELU Director, the Program Area Deputy Commissioner, and the OGC Deputy Commissioner will discuss and consider what disciplinary actions will be taken.
- B. In the event that the case is indicated, the Director of ELU, in consultation with the Program Deputy Commissioner and the OGC Deputy Commissioner, will also determine whether New York Social Services Law requires the employee's permanent removal from his/her normal duties or whether the employee may resume some or all of those duties.

VIII. The Responsibilities of the Office of Personnel

- A. OSI will request confirmation of employment for all ACS employees involved in these cases from Personnel.
- B. ELU may request that Personnel provide information and records necessary to evaluate the appropriateness of and need for formal charges or summary action (in the case of probationary employees).
- C. If requested by ELU, Personnel will provide basic personnel information needed to make a background assessment of the case, such as the staff member's name, employee reference number, title, civil service status, length of service, home address, telephone number, work address, telephone number, social security number, work shift, supervisor's name, title and work telephone number, performance evaluations and time and leave records.
- D. If requested by ELU, Personnel will provide the ELU Director with information about the probationary status of the ACS employee prior to the expiration of the probationary period.
- E. If the ELU Director, the Program Area Deputy Commissioner, and the OGC Deputy Commissioner decide to take summary action against a probationary employee or otherwise an at-will employee, the ELU Director will notify the Assistant Commissioner of Personnel who will ensure that Personnel takes such action.

IX. Confidentiality

Staff should respect the confidentiality and privacy of all families involved with ACS, including fellow staff members and their respective family members. Staff are prohibited from sharing confidential information, inappropriately accessing systems to look up cases, and discussing ACS cases on social media. Please refer to the ACS Code of Conduct, available on the ACS Intranet, for more guidance relating to confidentiality. Also, please refer to the attached December 16, 2008 E-bulletin from the Office of the General Counsel Deputy Commissioner, Joseph Cardieri, concerning confidentiality and privacy in accessing various State and City databases and utilizing the information herein.