



**ACS EMERGENCY GUIDANCE FOR CONGREGATE CARE PROVIDERS:  
Staffing, Training and Clearances Requirements - COVID-19  
REVISED May 5, 2020**

This memorandum provides emergency guidance to ACS contracted foster care and juvenile justice providers regarding temporary modifications to staffing and training requirements pertaining to congregate care programs. These modifications apply only as needed to allow for continued services to support children in care during the COVID-19 emergency in New York City. This guidance will be updated as necessary.

ACS expects its provider agencies to continue to maintain staffing ratios sufficient to provide appropriate care and supervision of children and youth in their care, consistent with the health and safety of foster children and youth and agency staff. Providers should attempt to maintain required staffing ratios. ACS recognizes the need for flexibility with staffing ratios, as well as with certain training and clearance requirements as described below.

The New York State Office of Children and Family Services (OCFS) issued guidance<sup>1</sup> to congregate care providers on March 25, 2020, which allows for temporary adjustments in staffing patterns and training requirements to meet the needs of the program during the COVID-19 emergency. OCFS issued additional interim guidance regarding background checks for staff on April 10, 2020.<sup>2</sup> This ACS guidance is consistent with the OCFS guidance.

**Staffing During the COVID-19 Emergency**

Appropriate staffing ratios are essential for the safety and well-being of children and youth in care as well as the staff members themselves. Sufficient staff are needed to:

- Provide supervision and child care;
- Provide therapeutic support to children and youth in care, especially those who are in crisis;
- Facilitate family time, including virtual visits;

<sup>1</sup> NYS OCFS “Novel Coronavirus of 2019 (COVID-19) Guidance for Voluntary Foster Care Agency and Detention Programs Regarding Youth Supervision by Trained Staff,” issued March 25, 2020. Guidance available here: <https://ocfs.ny.gov/main/news/2020/COVID-2020Mar25-Guidance-Youth-Supervision.pdf> and attachments here: <https://ocfs.ny.gov/main/news/covid-19/guidance.php#h3-guidance-ldss> (click on “Foster Care Agency and Detention Programs - Youth Supervision”).

<sup>2</sup> NYS OCFS “Interim Guidance on Background Check Requirements for Staff of OCFS Licensed or Certified Residential Programs for Youth During COVID-19 Emergency,” issued April 10, 2020. Available here: <https://ocfs.ny.gov/main/news/2020/COVID-2020Apr10-Guidance-Background-Checks.pdf>

- Prevent and de-escalate conflicts between children and youth;
- Monitor the health and well-being of children and youth in care; and
- Provide programming to engage children and youth in educational and recreational positive activities.

During this public health emergency, staff and young people alike face high levels of stress. It is important that staff support one another and that there is sufficient coverage to allow staff to take brief breaks throughout the day while the program maintains appropriate supervision of children and youth.

Due to the COVID-19 emergency, programs are likely to face staffing challenges. **Providers must clearly convey the expectation to all staff that they must not report to work if they have any of the following symptoms** (not due to pre-existing conditions):

- Fever (temperature above 100.4 degrees Fahrenheit or 38 degrees Celsius);
- Cough;
- Shortness of breath (difficulty breathing);
- Sore throat.

If an employee is exhibiting or reporting any of these symptoms, they must be directed to go home and contact their organization’s Human Resources department for information. The employee’s supervisor should also contact Human Resources regarding next steps.

### **Flexibility to Help Providers Maintain Appropriate Staffing Levels**

Due to the challenges noted above, ACS and OCFS are offering providers relief on certain requirements (described below) in order to help maintain appropriate staffing levels.

#### Expedited Clearances for Staff Transitioning from OCFS, OMH, OPWDD and OASAS Licensed or Certified Programs

Providers may consider reassigning staff from other programs to staff a congregate facility. OCFS’ interim guidance on background check requirements (April 10, 2020)<sup>3</sup> clarifies that staff currently employed by a program licensed or certified by OCFS, the Office of Mental Health (OMH), or the Office for People with Developmental Disabilities (OPWDD) may be employed at a congregate care site on an expedited basis. To take advantage of OCFS’ expedited process to onboard such a staff person, agencies should fill out and submit an [Executive Order 202.13 – Criminal Background Check Request Form](#) to the OCFS mailbox ([ocfs.sm.cbc@ocfs.ny.gov](mailto:ocfs.sm.cbc@ocfs.ny.gov)). Staff from an Office of Addiction Services and Supports (OASAS)-certified site may also be employed at a congregate care site on an expedited basis. For such staff, provider agencies should fill out and submit a [PAS-123 – OASAS Criminal Background Check Waiver Form](#) to the OCFS mailbox ([ocfs.sm.cbc@ocfs.ny.gov](mailto:ocfs.sm.cbc@ocfs.ny.gov)). All regularly required pre-employment background checks, including fingerprinting, must be completed for staff as soon as practicable.

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<sup>3</sup> NYS OCFS “Interim Guidance on Background Check Requirements for Staff of OCFS Licensed or Certified Residential Programs for Youth During COVID-19 Emergency,” issued April 10, 2020. Available here: <https://ocfs.ny.gov/main/news/2020/COVID-2020Apr10-Guidance-Background-Checks.pdf>

Upon receiving the form, OCFS will transmit the request to the Justice Center’s Criminal Background Check Unit. Review the April 10 OCFS guidance for details on this process. OCFS will notify foster care agencies of the results of the Justice Center review.

If the Justice Center approves the employee based on the expedited background check, the employee may begin working at a congregate care site. Staff approved by this interim process who have potential for direct contact with youth must be supervised, with line-of-sight supervision, by an individual who has satisfactorily completed the full background check process.

Prospective congregate care staff who are not approved by the Justice Center through the interim process, and prospective congregate care staff who are not currently employees of a State-certified or licensed program, may not work on site at the congregate care facility until satisfactorily completing the full background check process, consistent with OCFS’ interim guidance and 19-OCFS-ADM-21, *Expansion of Background Checks for Congregate Care Staff Under the Family First Prevention Services Act*.<sup>4</sup>

#### Utilization of Partially-Trained Staff

When necessary to address COVID-19 related staff shortages, congregate foster care and detention programs may utilize staff who have received partial behavior management training related to de-escalation skills and techniques (everything other than physical restraint intervention). Staff who have not completed training on physical restraint intervention must complete it as soon as it is safely possible.

Providers must refer to OCFS’ 3/25/20 guidance<sup>5</sup> and carefully follow all instructions therein. Staff who have not been trained to use physical restraints must not use physical restraints.

#### **Requesting a Waiver of Minimum Regulatory Staffing Requirements**

As stated in the OCFS guidance (3/25/20), “staffing must meet the minimum regulatory required ratios unless otherwise waived (for detention and Close to Home programs); or the agency is granted an exception to the regulation or receives OCFS approval for a change to their staffing plan (foster care programs, excluding Close to Home), as applicable. Programs may only request a change in minimum staffing ratio under this guidance in the event that exigent circumstances exist due to the COVID-19 pandemic that prohibit the program from being able to carry out their essential functions under existing

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<sup>4</sup> [https://ocfs.ny.gov/main/policies/external/ocfs\\_2019/ADM/19-OCFS-ADM-21.docx](https://ocfs.ny.gov/main/policies/external/ocfs_2019/ADM/19-OCFS-ADM-21.docx)

<sup>5</sup> NYS OCFS “Novel Coronavirus of 2019 (COVID-19) Guidance for Voluntary Foster Care Agency and Detention Programs Regarding Youth Supervision by Trained Staff,” issued March 25, 2020. Guidance available here: <https://ocfs.ny.gov/main/news/2020/COVID-2020Mar25-Guidance-Youth-Supervision.pdf> and attachments here: <https://ocfs.ny.gov/main/news/covid-19/guidance.php#h3-guidance-ldss> (click on “Foster Care Agency and Detention Programs - Youth Supervision”).

staffing requirements.”<sup>6</sup> Agencies must refer to the OCFS guidance for instructions to request a waiver and for a list of regulatory staff ratios covered under the guidance. Waiver requests can be made for a period of up to two weeks and may be extended or modified at the discretion of OCFS. Agencies should copy ACS Assistant Commissioner Tanya Scott ([tanya.scott@acs.nyc.gov](mailto:tanya.scott@acs.nyc.gov)) when submitting any waiver request to OCFS.

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<sup>6</sup> NYS OCFS “Novel Coronavirus of 2019 (COVID-19) Guidance for Voluntary Foster Care Agency and Detention Programs Regarding Youth Supervision by Trained Staff,” issued March 25, 2020. Guidance available here: <https://ocfs.ny.gov/main/news/2020/COVID-2020Mar25-Guidance-Youth-Supervision.pdf> and attachments here: <https://ocfs.ny.gov/main/news/covid-19/guidance.php#h3-guidance-ldss> (click on “Foster Care Agency and Detention Programs - Youth Supervision”).