


**Foster Care Incident Reporting in Child Welfare Placements**

<p><b>Approved By:</b> Jess Dannhauser, Commissioner </p>	<p><b>Date Issued:</b> <u>3/24/22</u></p>	<p><b>Number of Pages:</b> 19</p>	<p><b>Number of Attachments:</b></p>
<p><b>Related Laws:</b> NY Soc. Serv. Law §§ 20(5), 422, 422-b(1), 424, 488, 491-492; Family Court Act Articles 10 and 10-A</p>	<p><b>ACS Divisions/Provider Agencies:</b> Family Permanency Services, Office of Shared Response, Division of Child Protection, Family Court Legal Services, Office of Special Investigations, Division of Administration, Foster Care Provider Agencies.</p>	<p><b>Contact Office / Unit:</b> Fatima Robinson, Office of Shared Response <a href="mailto:acs.sm.Incident.Forms@acs.nyc.gov">acs.sm.Incident.Forms@acs.nyc.gov</a></p>	
<p><b>Supporting Regulations:</b> 18 NYCRR Part 433 Abuse, Neglect and Significant Incidents Involving Vulnerable Persons, 18 NYCRR §§ 441.7 and 441.8</p>	<p><b>Supporting Case Law:</b></p>	<p><b>Bulletins &amp; Directives:</b> <i>Child Safety Alert #35, Responding to Heightened Safety Concerns in Foster Homes, 5/26/16 (revised July 28, 2016);</i>  <i>Memorandum Clarification of Reporting and Investigating Deaths, Justice Center for the Protection of people with Special Needs, 12/17/2015;</i>  <i>10-OCFS-INF-08, Introducing New Fatality Report Format, 8/26/10;</i>  <i>13-OCFS-INF-05 Protection of People with Special Needs Act and the Formation of the Justice Center and the Vulnerable Persons Central Registry, 5/3/13</i>  <i>15-OCFS-ADM-16, Requirements to Identify, Document, Report and Provide Services to Child Sex Trafficking Victims, Revised 3/30/16;</i>  <i>15-OCFS-ADM-25, Timely Data Entry and Use of Incident Date, 11/23/15</i></p>	

		<p>16-OCFS-ADM-09, <i>Protocols and Procedures for Locating and responding to Children and Youth Missing from Foster Care and Non-Foster Care</i>, 5/5/16;</p> <p>16-OCFS-ADM-11, <i>Amended Code of Conduct for Use by Facility and Provider Agencies Under the Jurisdiction of the Justice Center for the Protection of People with Special Needs</i>, 6/1/16,</p> <p>17-OCFS-ADM-15, <i>Relief from Duplicate Reports of Incidents to the Vulnerable Persons Central Register by Mandated Reporters</i>, 10/25/2017);</p> <p>19-OCFS-INF-01 <i>The Inclusion of Local Social Services District Comments in Child Fatality Reports.</i></p>
<p><b>Key Words:</b>          Incident, reporting, critical incident, fatality, hospitalization, 853D, 3-hour report, 24-hour report, managerial report, emergency, reportable, concern, SCR, Shared Response, significant incident</p>	<p><b>Related Policies:</b>          Rapid Response Protocol; ACS Guidance, <i>Reporting LGBTQ Incidents and Inquiries, Safe and Respected</i>, page 45;</p> <p>ACS 2008/07: Revised State Central Register Reporting Requirements for Mandated Reporters and Expansion of Social Services Worker Classified as Mandated Reporters; dated July 1, 2008.</p> <p>ACS Policy 2010/03: Guidelines for the Provision of Emergency and Inpatient Mental Health Services for Children in the Foster Care and Child Protective System.</p> <p>Children Missing from Foster Care Placement; dated December 5, 2007.</p>	<p><b>Supersedes:</b>          DC Memo to Provider Agency Executive Directors, <i>Fatality and Critical/Significant Incident Criteria and Reporting</i>, 4/7/2014</p>

	<p>ACS Foster Care Quality Assurance Standards, 2011, Part VIII[B]</p> <p>ACS Policy 2016/10, Suicide Prevention and Intervention Policy for Juvenile Justice Placement, pg. 4, III.C.</p> <p>ACS Policy 2020/05 Identifying, Assessing and Safety Planning with Child Sex and Labor Trafficking Victims.</p>	
<p><b>Related Forms:</b> ACS Form FPS-021, formerly CS 853D (Attachment A) and ACS Form FPS-031, Reportable Concern (Attachment B), Absent Without Consent (AWOL) Missing or Abducted Referral Notification Form FPS-024 (Attachment C)</p>		
<p><b>SUMMARY:</b>                  This policy sets forth the types of incidents and occurrences involving a child in the care and custody, temporary care and maintenance of ACS or custody and guardianship of the Administration for Children’s Services and/or a foster care agency, residing at the Children’s Center or with foster care provider agencies, must be reported, to whom they must be reported, and in the manner they must be reported. This policy does not apply to children in Close to Home placements or detention.</p>		
<p><b>SCOPE:</b>                  This policy applies to the staff of the ACS Office of the First Deputy Commissioner, the Nicholas Scoppetta Children’s Center, ACS Division of Family Permanency Services’ Office of Shared Response, Family Court Legal Services, the ACS Division of Child Protection’s Office of Special Investigations, foster care provider agency staff and administration, and ACS executive leadership.</p>		

**I. INTRODUCTION**

- A. The reporting requirements discussed in this policy are in addition to, and supplement, other reports that must be made to the New York State Office of Children and Family Services, the Statewide Central Register of Child Abuse and Maltreatment and/or to the Justice Center for the Protection of People with Special Needs and/or to the Vulnerable Persons Central Register. See Sections II(A) and B and Section VI.
  
- B. This policy sets forth the types of incidents involving a child in the care and custody or temporary care and maintenance of the Administration for Children’s Services (ACS), or custody and guardianship of the Administration for Children’s Services (ACS)<sup>1</sup> and/or foster care agency, and residing in the Children’s Center or with contracted foster care

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<sup>1</sup> This policy additionally applies to children who remain in the care of ACS over the age of 21 because of an approved or pending Continuation of Care & Support Beyond 21 (CCS21+)

provider agencies must be reported, to whom they must be reported, and in what manner they must be reported.<sup>2</sup> For the purposes of this policy this includes Persons in Need of Supervision (PINS) and destitute children. The requirements of this policy apply to incidents that occur when a child or youth is in the care of a parent, guardian, or other relative during scheduled visit or trial discharge and when children are in the care of a foster parent(s) or other foster care placement setting. All reports identified and discussed in this policy shall be directed to the ACS Office of Shared Response (OSR). OSR will, as necessary and appropriate, distribute such reports within ACS (see section VII, below) and to provider agencies.

- C. ACS pre-placement facilities, which include the Children Center as well as the Youth Reception Centers and Sheltering Arms Reception Center, manage the incidents that occur at those facilities. This includes notifying the FCLS attorney assigned as well as provider agency case planner when an incident involves a youth placed in a pre-placement facility that has a case planning agency assigned. When a youth is at a pre-placement facility and has a case planning agency assigned, the Office of Shared Response will also be notified of the incident and follow-up with the provider agency to ensure proper follow-up takes place, regarding the role and responsibilities of the case planning agency. Examples of such follow-up includes notifying the family of the incident, speaking with the involved youth, safety planning with the youth and pre-placement facility, and notifying other oversight agencies if appropriate.
- D. Incidents and concerning events must be reported as soon as practicable without placing the foster child or foster children in any further danger<sup>3</sup>; however, incidents that are reportable to the NYS Justice Center must be reported immediately upon discovery. To facilitate expedient reporting, the incident may be reported by any provider agency staff with knowledge of the incident or event. Regardless of who submits the report, the report must include the name and contact information for the assigned case planner, the case planner's supervisor and program director or staff of equivalent title.<sup>4</sup>
- E. Although agencies may have their own additional internal reporting procedure or documentation, such reports and documentation do not replace the reports required as outlined in this policy. This policy identifies two distinct types of events that must be reported to ACS:
  - 1. *Critical incidents* (see section II, below); and
  - 2. *Reportable concerns* (see section III, below).

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<sup>2</sup> This policy does not apply to children and youth in Close to Home placements, for whom separate incident reporting expectations apply.

<sup>3</sup> See ACS *Foster Care Quality Assurance Standards*, 2011, Part VIII[B], or any amended or successor guidance.

<sup>4</sup> See also, Justice Center for the Protection of People with Special Needs website at <https://www.justicecenter.ny.gov/reporting-incident> for information on how to make a report to the Justice Center.

- F. Form FPS-021 must be used to notify ACS of critical incidents. FPS-021 is composed of three sections, Form-021(A), Form-021(B), and Form-021(C), each of which must be submitted within separate timeframes:
1. Initial Report FPS-021(A), must be submitted within three (3) hours of learning of the incident or event.
    - a. If the incident requires the immediate assistance of ACS Investigative Consultants, for example in the event of an abduction by a family member, the agency's designated lead person (see section II. D. below) must immediately inform ACS by calling the Executive Director of the Office of Shared Response at (646) 957-7840, or via email to [acs.sm.Incident.Forms@acs.nyc.gov](mailto:acs.sm.Incident.Forms@acs.nyc.gov).
    - b. If the agency has been contacted by a media outlet with questions concerning an incident or event, the agency must notify OSR immediately via email or phone (see section III[C] for more information about media attention and inquiries);
  2. Critical Incident 24-Hour Report FPS-021(B), must be submitted within 24 hours of the submission of the initial report; and
  3. Final Managerial Report FPS-021(C), must be submitted within 7 calendar days of the initial report.
- See section IV for additional information.
- G. Form FPS-031 must be used to notify ACS of reportable concerns within 24 hours of the event.
- H. In addition to the reporting requirements outlined in this policy, the following individuals must also be notified within 24 hours of any critical incident or reportable concern reported to OSR:
1. The child's parent or legal guardian unless rights have been terminated or surrendered; and
  2. The assigned Family Court Legal Services (FCLS) attorney. The FCLS attorney will inform the child's attorney by the next business day.
- I. Maltreatment Reports and Allegations Concerning Foster Parents<sup>5</sup>
1. As mandated reporters, provider agency staff are required to report any reasonable suspicion of abuse or maltreatment of a child or youth in a foster home to the SCR.<sup>6</sup> The duty to report is not limited to children residing in foster homes, but includes all children and youth in the care and custody of ACS who are

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<sup>5</sup> ACS 2008/07: Revised State Central Register Reporting Requirements for Mandated Reporters and Expansion of Social Services Worker Classified as Mandated Reporters; dated July 1, 2008, and any amended or successor guidance.

<sup>6</sup> This includes reports involving any biological or adopted child of a foster parent, a child of another household member who resides in the foster home, or any other child for whom a foster parent or other foster household member provides care, custody, guardianship, or childcare.

suspected to have been the subject of abuse or maltreatment during visits or during trial discharge periods.<sup>7</sup>

2. Mandated reporters are required to complete and submit to the appropriate New York Local District of Social Services Form LDSS-2221A within the 48 hours following the accepted oral report to the SCR. For reports concerning children and youth in the care and custody, custody and guardianship or in temporary care and maintenance of ACS or placed with ACS a copy of form LDSS-2221A must be sent to the ACS Office of Special Investigations (OSI) borough office where the SCR investigation is being conducted<sup>8</sup>:

J. Justice Center Reporting

1. All youth in residential placements, including, for the purpose of this policy, residential treatment centers (RTCs), rapid intervention centers (RICs), crisis respite centers, group homes, group residences (GR), Youth Reception Centers (YRCs), the Children's Center and Agency Operated Boarding Homes (AOBH), are considered vulnerable persons under the New York State Protection of People with Special Needs Act of 2012.<sup>9</sup>
2. Reasonable cause to suspect maltreatment (abuse, neglect and significant incidents) of a youth residing in residential placement by facility staff (including employees, contractors, and volunteers) must be reported immediately upon discovery to the Justice Center's Vulnerable Persons Central Registry (VPCR) Hotline at (855)373-2122;
  - a. Fatalities, as noted above in II[A], must be reported to the Justice Center Vulnerable Persons Central Register (VPCR) Death Reporting hotline at (855)373-2124<sup>10</sup>.

- K. ACS is committed to working with children, youth, and families in a manner that is respectful of all racial and cultural backgrounds. Staff must treat all families, regardless of race, religion, other cultural background, gender, sexual orientation, or gender identity or expression, with the same level of respect and dignity. Staff must not allow any of their own values or beliefs to interfere with their responsibility to provide, without bias, high-quality information and services to all families.

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<sup>7</sup> If the child is in a residential placement, and the alleged perpetrator of the suspected abuse or maltreatment is a staff member of the placement facility, the report must be made to the Justice Center's Vulnerable Persons Central Register (VPCR) at 1-855-373-2122.

<sup>8</sup> The form must be submitted to ACS which is the local district of social services for all foster homes within New York City. Child Safety Alert #35 requires that where cases concern a child in the care and custody of ACS but ACS is not the local district of social services, a copy of the LDSS-2221A must also be sent to OSI.

<sup>9</sup> See 13-OCFS-INF-05, Protection of People with Special Needs Act and the Formation of the Justice Center and the Vulnerable Persons Central Register, dated 5/3/13, and any amended or successor guidance. Family foster homes are excluded from this reporting requirement.

<sup>10</sup> See Justice Center for Protection of People with Special Needs, *Clarification on Reporting and Investigating Deaths*, Memorandum, 12/17/15.

## **II. REPORTING EXPECTATIONS**

- A. Timely reporting is an essential part of incident response. Agencies must have an on-call procedure in place so that foster parents may contact the agency immediately in the event of an incident. All provider agency staff, residential staff, children and youth in care, and foster parents shall be provided with on-call contact information that is regularly updated as needed.
- B. The agency's designated lead person (see section II. D. below) review of and response to the incident must include efforts to obtain detailed information from all witnesses as well as the alleged subject: including medical providers and first responders when applicable, family members, foster family household members, including other children or congregate care residents, and if appropriate, and agency staff. Information obtained from these interviews that is pertinent to an employee's performance evaluation or supervision, or that may impact a foster parent's annual recertification or re-approval, must be comprehensively documented and stored in a file and location separate from the child or youth's case record. A description of the incident, its impact on the child and on the child's service plan must be documented in the progress notes. Additionally, a safety plan is needed if an incident report is filed.
- C. Relevant supporting documents, including log books, CONNECTIONS (CNNX) progress notes, supervisory notes and medical records, must be thoroughly reviewed by the agency for thoroughness, accuracy and timeliness, and must be made readily available to authorized ACS staff for review.
- D. Agencies shall designate a lead person for required reporting and incident response following an incident. This person may vary depending on the nature of the incident and the type of response needed (for example, the agency's nurse may be involved if the incident results in a medical hospitalization). The lead person must review all reports, forms and documentation for consistency and accuracy and to identify outstanding issues in need of clarification or follow-up response by the agency and will serve as the point of contact for OSR.
- E. For immediate assistance or support from ACS and/or to provide immediate notification, Executive Director of the Office of Shared Response may be reached after 5pm on weekdays as well as on weekends and holidays at the after-hours contact number: (646) 957-7840.
- F. All sources of information shall be clearly identified and included in the report. Contradictory or questionable information shall be noted and documented by the reporter, who must provide their best assessment of the accuracy of the information obtained in the report(s).

## **III. CRITICAL INCIDENTS**

The following events are critical incidents when they involve a child in the care and custody or custody and guardianship of ACS or PINS in temporary care and maintenance or placed

with ACS, while a child is on trial discharge, or a child is in the care of a parent or guardian during a scheduled visit:

## **A. Types of Critical Incidents**

### **1. Fatality**

- a. Agencies must report the death of any child in foster care to ACS' Office of Shared Response (OSR) and the New York State Office of Children and Family Services (OCFS) as soon as possible but within 24 hours.<sup>11</sup> OCFS will investigate the cause and circumstances surrounding the death and prepare an individual child fatality report with the agency's cooperation and contributions. State requires notification as follows:
  - i. The SCR must be notified of the death of any child in foster care as soon as possible, and no later than 24 hours;
  - ii. If the fatality occurred within a congregate care or, it must be reported within 24 hours to the Justice Center Vulnerable Persons Central Register (VPCR) Death Reporting Line at (855)373-2124;
  - iii. Within 24 hours of a fatality, an agency official must call the appropriate OCFS Regional Office;<sup>12</sup> and
  - iv. Within 72 hours, the agency must submit OCFS-7065, *Agency Reporting Form for Serious Injuries, Accidents or Deaths of Children in Foster Care*.<sup>13</sup>
  - v. Agencies must forward the notification and fatality report sent to OCFS to OSR, and must follow the critical incident reporting steps outlined in section IV.[G] below.

### **2. Maltreatment Reports and Allegations**

- a. Reasonable cause to suspect abuse or maltreatment/neglect/significant incident must be reported to the SCR or Justice Center. Any accepted report should be forwarded to OSR.

### **3. Serious Injury or Illness**

As stated in I(F) above, reasonable cause to suspect abuse or maltreatment/neglect/significant incident (non-fatalities) must be reported to the SCR or Justice Center. Additionally, any incident involving the serious injury or illness of a child in foster care or a child on a trial discharge from foster care that meets the following criteria must be reported as a critical incident:

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<sup>11</sup> See 10-OCFS-INF-08, *Introducing New Fatality Report Format*, issued 8/26/10, for additional information on OCFS' fatality reporting requirements.

<sup>12</sup> The New York City Regional Office phone number is (212)383-4718.

<sup>13</sup> This form is available online via this link. The full title of the form is *New York State Office of Children and Family Services Agency Reporting Form for Serious Injuries, Accidents or Deaths of Children in Foster Care and Deaths of Children in Open Child Protective or Preventive Cases*.



- a. The child received medical treatment for an injury or illness that, in the opinion of treating medical professional, may cause death, serious disability or disfigurement;<sup>14</sup> and/or
- b. The child has been admitted to a hospital for treatment due to an accident or injury or for unanticipated medical treatment; or
- c. The circumstances that led to any injury or illness or the response to any injury or illness raises concerns about the supervision and care of the child and/or the safety of the foster care placement or visit schedule/plan.<sup>15</sup>

#### 4. High Risk Children Missing from Foster Care<sup>16</sup>

If the provider agency or caregiver determines that a child or youth is missing, the agency must then assess whether the child or youth is considered a “high risk,” meaning that the missing child or youth’s safety is or may be severely compromised for one or more of the following reasons, which necessitate immediate reporting to ACS using form FPS-021,<sup>17</sup> as well as, if the youth is in congregate care, to the Justice Center. An Absent Without Consent (AWOC) Missing or Abducted Referral Notification Form FPS-024 (Attachment C) must also be completed. The agency must consult with treatment team as necessary. (See part B of this section, below, for detailed reporting guidance):

- a. The child or youth has been or is believed to have been abducted;
- b. The child or youth is under the age of 13;
- c. The child or youth has a history as a victim of sex trafficking; previous results from the Child Sex Trafficking Indicator Tool (also known as the “comprehensive tool”) have indicated a “high” risk level; or the child or youth is otherwise believed to be at risk of commercial sexual exploitation;<sup>18 19</sup>
- d. The child or youth has one or more health conditions that, if not treated daily, will place the child or youth at severe risk;
- e. If the youth is parenting an infant/child, the infant/child is believed to be with the missing foster youth, and the agency or caregiver believes the foster

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<sup>14</sup> Additionally, OCFS requires that any injury to a child in foster care that requires the services of a physician and that, in the opinion of such physician, may cause death, serious disability or disfigurement be reported to OCFS within 24 hours by phone. Within 72 hours, the incident must be reported using form OCFS-7065, *Agency Reporting Form for Serious Injuries, Accidents or Deaths of Children in Foster Care*. This form is available online via this link. The full title of the form is New York State Office of Children and Family Services *Agency Reporting Form for Serious Injuries, Accidents or Deaths of Children in Foster Care and Deaths of Children in Open Child Protective or Preventive Cases*.

<sup>15</sup> This may include incidents between two children or youth in foster care that raise concerns about the level of supervision at the time of the incident.

<sup>16</sup> See ACS Children Missing from Foster Care Placement; dated December 5, 2007, and any amended or successor guidance.

<sup>17</sup> See 16-OCFS-ADM-09, Protocols and Procedures for Locating and Responding to Children and Youth Missing From Foster Care and Non-Foster Care, Effective May 5, 2016, and any amended or successor guidance.

<sup>18</sup> Commercial and/or sexual exploitation of a child refers to a child under age 18 who is induced to perform a commercial sex act, which is defined as when something of value is provided in exchange for a sex act, regardless of whether force, fraud, or coercion is present. See 15-OCFS-ADM-16, *Requirements to Identify, Document, Report, and Provide Services to Child Sex Trafficking Victims*, revised 3/30/16.

<sup>19</sup> See ACS Policy 2020/05 *Identifying, Assessing and Safety Planning with Child Sex and Labor Trafficking Victims*.

youth poses an imminent risk to their infant/child, the agency shall take all actions required as mandated reporters pursuant to Social Services Law §§ 413 and 415;

- f. The child or youth has severe behaviors that, if not treated, will place the child or youth or others at severe risk;
- g. The child or youth has a mental health condition which is reasonably likely to pose a danger to the child or youth or others;
- h. The child or youth has a developmental disability or cognitive impairment that impairs his or her ability to care for themselves;
- i. The child or youth is believed to be with someone who is believed to place the child at imminent risk of abuse or neglect;
- j. The child or youth is reasonably believed to be actively misusing alcohol and/or other substances to a degree that places the child or youth in serious harm.

#### **5. Behavioral or Mental Health Incident**

- a. Any suicide attempt or suicide gesture (with action) of a youth in congregate care must be reported to the Justice Center's Vulnerable Persons Central Register (VPCR) at 1-855-373-2122.<sup>20</sup>
- b. Substance abuse, including alcohol abuse or misuse of a controlled or prescribed substance, which results in hospitalization or other urgent medical care.

#### **6. Law Enforcement Involvement**

- a. Child or youth arrested for a violent act or possible felony.
- b. Parent or discharge resource arrested while child is on trial discharge;
- c. Foster parent arrested;
- d. Other adult foster household member arrested for an offense related to the safety or well-being of any child in the household;<sup>21</sup> or
- e. Facility staff arrested<sup>22</sup>.

#### **7. Other Critical Incidents or Events**

- a. Any domestic violence within the child's residence or presence;<sup>23</sup>

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<sup>20</sup> If the suicide attempt results in an acute inpatient psychiatric hospitalization, the hospitalization must also be reported within 24 hours to the ACS Mental Health Coordination Unit (MHCU) via form CM-1057, in accordance with ACS Policy 2010/03: Guidelines for the Provision of Emergency and Inpatient Mental Health Services for Children in the Foster Care and Child Protective System, and any amended or successor guidance. For hospitalizations other than acute inpatient psychiatric hospitalizations and acute inpatient psychiatric hospitalizations of a youth in foster care over the age of 18, see section IV below.

<sup>21</sup> For the purposes of incident reporting, agencies shall consider any crime listed as a mandatorily disqualifying crime for the purposes of foster parent certification or approval as an offense related to the safety or well-being of any child in the household. OCFS has a list of the offense as defined in New York State Penal Law at the following website: [http://ocfs.ny.gov/main/policies/external/OCFS\\_2016/ADMs/CRIMINAL-HISTORY-RECORD-ASFA-REVIEW-STANDARDS.pdf](http://ocfs.ny.gov/main/policies/external/OCFS_2016/ADMs/CRIMINAL-HISTORY-RECORD-ASFA-REVIEW-STANDARDS.pdf)

<sup>22</sup> For additional guidance for ACS employees see ACS Code of Conduct p.24

<sup>23</sup> If the domestic violence leads to a fatality and the victim is the foster child, the fatality must also be reported as outlined in II, above. Residence refers to the location where the incident occurred that could be the place the child is residing during a visit, trial discharge, the foster home, or residential placement.

- b. Child(ren) left unsupervised due to the death or incapacitation of parent(s), foster parent, or childcare provider;
- c. Child in foster care has self-disclosed, or case planner otherwise confirms, they are or have been commercially sexually trafficked or exploited;<sup>24 25</sup>
- d. Emergency that requires immediate re-placement of a youth, such as a fire, power outage, natural disaster, or breach of facility security that placed residents or confidential information at risk.
- e. Any child or youth that is deemed missing.

## **B. Critical Incident Reporting**

1. Critical incidents require the immediate notification of ACS. Provider agencies shall notify the OSR by emailing [acs.sm.Incident.Forms@acs.nyc.gov](mailto:acs.sm.Incident.Forms@acs.nyc.gov) or calling (646) 957-7840, if the incident occurs after hours, (646)784-1851. OSR may reach out to Investigative Consultants for assistance with some incidents including but not limited to any abduction of a child by a family member. Any child or youth that is deemed missing must be reported to MCOU.<sup>26</sup>
2. **Initial Report: FPS-021 (A)**  
FPS-021 (A), *Initial Report of Critical Incident Involving a Child in Foster Care* (“initial report”) must be sent to OSR within three (3) hours of the incident. The following information must be included:
  - a. All the child or youth’s identifying information:
    - i. Name, date of birth, case number and case name;
  - b. Child or youth’s placement location and facility ID number;
  - c. Current circumstances: where the child or youth is now, whether other children or youth reside in the home, whether those children are in foster care, and the status of other children in the foster home or facility;<sup>27</sup>
  - d. Case planning agency information, including contact and supervisor information;
  - e. Information about the child or youth’s parent(s) and/or legal guardian(s);
    - i. Name(s), address(es) and phone number(s);
    - ii. Proof and confirmation that the child or youth’s parent or legal guardian has been contacted, or if contact was not made, proof of diligent efforts to initiate such contact, including date, time and method (such as phone call), and number of attempts.<sup>28</sup>

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<sup>24</sup> See 15-OCFS-ADM-16, *Requirements to Identify, Document, Report and Provide Services to Child Sex Trafficking Victims (Revised)*, 3/30/16 for additional screening, reporting, service planning and documentation expectations. If a child has been determined to be a victim of sex trafficking, the provider must immediately make a report to law enforcement.

<sup>25</sup> See ACS Policy and Procedure 2020/05 *Identifying, Assessing, and Safety Planning with Child Sex and Labor Trafficking Victims*, dated 09/18/2020, and any amended or successor guidance.

<sup>26</sup> For missing children case planners or agency designees are required to notify ACS’s Missing Children’s Outreach Unit (MCOU) via email ([mcou@acs.nyc.gov](mailto:mcou@acs.nyc.gov)) with an AWOC Referral Report and a recent photo of the missing child. MCOU then forwards the picture and the AWOC Referral Form to the AWOC Recovery Unity, FCLS, and OSR for further notifications. See ACS Policy 2018/xx *High-Risk Children and Youth Missing from Child Welfare Foster Care*.

<sup>27</sup> A safety and risk assessment must be conducted for every child in the home.

<sup>28</sup> Unless that person’s rights have been terminated.

- iii. If medical consent for treatment is required document when it was obtained, and if not given document the diligent efforts employed to obtain consent.
- f. Provide documentation (i.e., confirmation number) proving that a report was made to SCR;
- g. Indicate whether a report has been made to the Justice Center, and provide pertinent information regarding the explicit nature of critical incident included in that report;
- h. Description of the incident, which must include:
  - i. Chronology and description of incident, including who was present;
  - ii. Where incident occurred (i.e., in the foster home, at school, during visits);
  - iii. When incident occurred (date and time);
  - iv. Brief description of agency's initial response;
  - v. If medical treatment has been obtained, the name and location and contact information for the medical provider, including hospital floor and room number, if applicable;
  - vi. If law enforcement responded to the incident, or police notification was made and required, the following information shall be provided:
    - a) Police precinct name, number and address;
    - b) Responding officer(s)'s name and badge number;
    - c) Police report number, if any; and
    - d) A description of the police action taken, if any.
- i. Indicate whether any media sources have contacted the agency regarding the incident and identify the media source.

**3. Critical Incident 24-Hour Report: FPS-021 (B)**

Form FPS-021 (B) must be submitted to OSR within 24 hours of the incident. This form shall provide additional information about the incident, the agency's response, and the child(ren) involved in the incident. The following information shall be included, where applicable:

- a. The child's identifying information and initial placement date;
- b. Contact information for the agency-designated point person;
- c. Information about the present child's status, including:
  - i. Updated prognosis and treatment; and
  - ii. Safety assessment conclusions;
- iii. Information on any placement change or planned placement change.
- d. Household composition of the home where the child resides. If the child is placed in a family foster home, provide information for every household member and include whether such person was present at the time of the incident;
- e. If the child resides in a residential facility, staff with childcare or supervision responsibilities who were working at the time of the incident and the staff member who was on call or the administrator on duty;
- f. If medical treatment was required include the name and location of the medical provider, including hospital floor number, and:
  - i. Treating and attending medical provider's name;

- ii. Preliminary diagnosis, prognosis, and recommended treatment, and
- iii. All available hospital or medical reports from the treating physician, including discharge summary and instructions.
- g. If necessary, any correction and/ or clarification of the timeline regarding the incident as detailed in the initial report;
- h. Information about the agency's initial response to the incident; include specific actions taken and the names and titles of staff members involved in the response. This must include:
  - i. Safety plan and other steps taken to address safety concerns; and
  - ii. The staff member's name along with their title responsible for following up on any outstanding concerns;
- i. A brief summary of recent case history, including date and source of information,<sup>29</sup> which includes:
  - i. The child's medical history, if applicable;
  - ii. Information about existing Orders of Protection or other court orders;
  - iii. Circumstances responsible for the child's most recent placement;
  - iv. The child's history and length of stay in foster care;
  - v. Number of placements and date at which current placement (in foster home or facility) began;
- j. If when applicable, provide the following information about other children or youths in the household:
  - i. Name and date of birth;
  - ii. If the child is in care include their Child Identification Number (CIN) and initial placement date, and;
  - iii. A summary of that child's current case status, including information about safety assessment conclusions and any placement changes;
- k. Confirmation that the FCLS attorney was notified, and when applicable, as well as the child or youth's parent(s);
- l. Where appropriate, an updated visit plan that reflects the new case circumstances;
- m. Additional information:
  - Indicate whether any media entities have contacted the agency regarding the incident, and identify any such media entities;
  - i. Contact information for other witnesses to the incident, whose information has not been reported elsewhere, as available.
- n. As necessary, provide additional information and indicate whether any of the following apply:
  - i. The child remains hospitalized; provide the name of the hospital or facility;
  - ii. A hospital summary or medical report has been requested or is attached;
  - iii. An LDSS-2221A is attached;<sup>30</sup>

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<sup>29</sup> Please include information, as known, about the agency with case planning responsibility at the time of previous incidents or events, if different than reporting agency.

<sup>30</sup> Note: the LDSS-2221A must be filled out by the mandated reporter within 24 hours of an accepted SCR report.

- iv. An OCFS-7065 is attached<sup>31</sup>;
- v. A police report has been requested or is attached; or
- vi. Other supporting documentation is attached (identify).
- vii. State whether there has been any attempt, as appropriate, to obtain a version of events from the foster parent, parent, staff, or other individual who is alleged to have harmed the child or youth. State the explanation given, if any.

**4. Final Managerial Report: FPS-021 (C)**

- a. A final managerial report must be completed by an agency Program Director, or staff member of a similar or higher title within the reporting agency. The final report must be submitted to OSR within seven (7) calendar days of the incident. This report shall include:
  - i. Updates or revisions of previously-reported information, including information on the child's current status and placement;
  - ii. The agency's plan to address practice and placement concerns regarding possible plans for replacement raised by the incident or the response to the incident, including any steps taken since the incident occurred (include dates);
  - iii. Information about whether any disciplinary action was taken because of the incident and the response to the incident with dates and affected staff (name and title) included;
  - iv. Confirmation of OCFS Regional Office notification, in the event of a fatality or other incident for which an OCFS-7065 must be submitted, including the date of contact and the name of representative with whom contact was made;
  - v. Information, as available, regarding any legal action relating to the incident has been threatened or initiated, provide information as available;
  - vi. If the incident involved a foster parent,
    - a) the foster parent's certification or approval history;
    - b) documentation of trainings attended;
    - c) most recent certification or approval decision;
    - d) a history of prior indicated or currently-open SCR reports regarding this foster parent and/or foster home which includes, as applicable, OSI investigation status and recommendations; and
    - e) the agency's plan for the foster home, including a plan to address identified concerns in the foster home if the foster home is to remain certified or approved;
  - vii. Any additional information, including requests for assistance or support from ACS.

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<sup>31</sup> OCFS-7065 requires the reporting of a serious injury or accident resulting in a medical treatment, hospitalization or death of a child in foster care, the death of a child in an open protective case, or the death of a child in an open preventive case. The form must be completed and sent to the appropriate Regional Office of the New York State Office of Children and Family Services (OCFS) within 72 hours of the injury, accident or death.

- a) State whether the incident has raised any issue that might initiate a consideration as to whether support, services or training (e.g., for the foster parent, parent, or staff member, or for all foster parents, parents, or staff members) could be improved or enhanced. If so, provide details.
- b. A staff member from OSR will review the report and provide a summary of action steps ACS expects of the reporting agency, including timelines and reporting expectations as needed.

#### IV. REPORTABLE EVENTS

The following non-critical incidents are considered reportable events, which must be reported to OSR via form [# TBD], *Reportable Concern Involving a Child in Foster Care* within 24 hours or the next business day, whichever comes first:

##### A. Types of Reportable Events

1. Youth arrested;
2. Physical injury of the child or youth at the child's foster care placement or residential placement location, regardless of cause;
3. Physical injury caused by youth to a foster parent, residential staff, other foster household member, or other foster child in the same placement which warrants urgent treatment from a medical professional;
4. Illness that requires emergency medical intervention;
5. A non-critical planned hospitalization or surgery of a child or youth in foster care for an illness, injury or other medical procedure;
6. Child or youth's destruction of property that endangers or disrupts the youth's placement;
7. Self-injurious behavior<sup>32</sup> without known suicidal intent (such as cutting, head banging) that requires medical attention or other clinical intervention;<sup>33</sup>
8. Medication error, adverse reaction to a medication, or failure to have prescribed medication as needed and/or prescribed that is not reportable as medical neglect to the SCR;<sup>34</sup>
9. Vehicular accident involving a child(ren) in foster care where the child was injured;
10. Emergency or hospital-based psychiatric treatment obtained<sup>35</sup> in any of the following circumstances:

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<sup>32</sup> ACS Policy 2016/10, *Suicide Prevention and Intervention Policy for Juvenile Justice Placement*, pg. 4, III.C.

<sup>33</sup> If the self-injurious behavior was suicidal in intent, it must be reported as a critical incident. If the behavior results in an inpatient psychiatric hospitalization, MHCU must be notified within 24 hours.

<sup>34</sup> If the child is in a congregate setting, administration of a medication contrary to a medical order that results in an adverse impact must be reported as a significant incident to the VPCR at 1-855-373-2122.

<sup>35</sup> This expectation is intended to apply to psychiatric treatment not reportable to the Mental Health Coordination Unit (MHCU). See ACS Policy 2010/03, *Guidelines for the Provision of Emergency and Inpatient Mental Health Services for Children in the Foster Care and Child Protective System*, and any amended or successor guidance.

- a. Child has had three (3) or more visits to a Comprehensive Psychiatric Emergency Program (CPEP, also known as a psychiatric emergency room) visit, intake or evaluation within six (6) months;
  - b. Child under age six (6) receives any emergency psychiatric treatment, including at a non-psychiatric Emergency Room (ER);
  - c. Any acute inpatient or state psychiatric hospital admission of a youth or young adult in foster care over the age of 18;<sup>36</sup>
11. Reasonable cause to suspect abuse or maltreatment/neglect must be reported to the SCR and/or the Justice Center. Additionally, the following events must be reported to OSR as reportable concerns:
- a. Agency transfers/re-places a child or children from a foster home due to safety concerns;
  - b. Justice Center substantiated reports;
  - c. Any subsequent reports connected to existing reports;
  - d. Any additional reports connected to exiting reports;
  - e. Any report of substantiated or indicated cases of abuse or neglect, of any kind.
12. In addition to holding a placement preservation conference, agencies must report when a child has experienced frequent placement changes or disruptions, including lateral moves and stays in respite and pre-placement settings, as follows:
- a. Child has moved more than two (2) times in a 30-day period; and/or
  - b. Child has moved four (4) or more times within the past six (6) months; and/or
  - c. Child has moved six (6) or more times within a year.
13. Contact from a public official or external monitoring agency regarding a case or facility.
14. SCR report attempted but not accepted by SCR;
- a. If a report of suspected maltreatment regarding a foster parent made but not accepted by the SCR, the provider agency must document the concerns that led to the attempted report;
15. If a foster parent, parent, guardian, or foster child intends to contact the media regarding a foster child or agency;
16. Any riot like event involving more than 3 youth, where police intervention is needed;

**B. Media or Public Official Attention**

1. Agencies must report any contact by a media outlet or public official regarding a case or facility immediately to OSR by phone or email to Fatima Robinson, Office of Shared Response (212) 676-7323 or [acs.sm.Incident.Forms@acs.nyc.gov](mailto:acs.sm.Incident.Forms@acs.nyc.gov)
2. To protect the confidentiality of the child(ren) in foster care, foster parent(s) and families, all media and public official inquiries to foster parents and agency staff shall be directed to the ACS Press Office as soon as possible, but no later than 24 hours:
  - a. The on-duty Press Officer may be reached at (212)341-0999. The Press Officer is responsible for informing the ACS Commissioner and other appropriate ACS staff as needed.

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<sup>36</sup> All acute inpatient psychiatric hospitalizations of foster children under the age of 18 must be reported to MHCU.



3. Foster parents are expected to uphold the privacy and confidentiality of foster children in interactions with the media. As part of their incident response when applicable, and/or if notified by a foster parent of incident-related media attention, agencies must inform foster parents of this responsibility, and shall advise foster parents to make no comment to the media and direct any media attention to the provider agency at the time of the incident or media contact.
4. Information about media inquiries related to critical incidents, when applicable, must be included in the critical incident report forms described above.

### C. Reportable Event Reporting

Agencies must complete and submit the *Reportable Concern Involving a Child in Foster Care* form [#TBD] within 24 hours of the reportable event to [Acs.Sm.Incident.Forms@acs.nyc.gov](mailto:Acs.Sm.Incident.Forms@acs.nyc.gov) .

## V. LGBTQ INCIDENT REPORTING

- A. Bias, harassment and discrimination of lesbian, gay, bisexual, transgender and questioning (LGBTQ) and/or gender non-binary (TGNB) children or youths in foster care must be treated as a serious event that requires prompt follow-up by the agency and reporting to the ACS Office of Equity Strategies and for youth in congregate care, the Justice Center.<sup>37</sup>
- B. Incidents or events constituting bias, harassment and/or discrimination must be reported as either a critical incident or reportable event where the incident meets the criteria outlined in this policy<sup>38</sup>. In addition, these incidents or events must be reported to the ACS Office of Equity Strategies when the incident was related to the child or youth's sexual orientation, gender identity or gender expression by completing and emailing form FSS-009, *ACS LGBTQ Incident/Inquiry Form* to [LGBTQ@acs.nyc.gov](mailto:LGBTQ@acs.nyc.gov).<sup>39</sup>

## VI. CNNX DOCUMENTATION

- A. A separate progress note that includes a description and pertinent details of the critical incident or reportable concern must be entered into CNNX. This may be copied and pasted from the incident summary submitted with the initial or 24-hour report.
- B. The case planner's supervisor must also enter a supervisory note with additional details regarding next steps.
- C. Progress notes regarding the incident and related information must be entered timely into CNNX.

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<sup>37</sup> See ACS Policy #2012/01, *Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual and Questioning (LGBTQ) Youth and their Families Involved in the Child Welfare, Detention and Juvenile Justice System*, 11/21/12, and ACS Guidance "Reporting LGBTQ Incidents and Inquiries."

<sup>38</sup> See *Reporting LGBTQ Incidents and Inquiries* for a list of additional incidents which must be reported to ACS.

<sup>39</sup> FSS-009, ACS LGBTQ Incident/Inquiry Form.

**VI. OSR REVIEW AND RESPONSE**

OSR will review the reports submitted. Actions following the review may include:

- A. OSR may internally distribute the reports received to ACS Executive Leadership for review depending on the nature of a critical incident.
- B. ACS may require agency senior leadership to attend a meeting with ACS to discuss the incident and/or the agency's response to the incident.
- C. The provider agency may be required to submit a corrective action plan to OSR that details what steps the agency will take to address any practice concerns, policy violations, or training deficits identified as a result of the incident or event. FPS leadership or OSR may request follow-up or status reports related to the corrective action plan submitted by the agency.
- D. OSR will monitor the agency's case-specific response and follow-up activities. This may include follow-up for additional details or clarification, or follow-up on personnel actions taken following an incident;
- E. If the incident led to broader concerns about the agency's case practice, the agency or program may be referred to the FPS Office of Strategic Program Support or the PPM Offices of Continuous Quality Improvement, or Agency Program Assistance for additional follow-up.