

## Chapter 5: Family Assessment Response (FAR)

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# Chapter 5: Family Assessment Response (FAR)

## A. Introduction to Family Assessment Response (FAR)

To allow for a more flexible response to families reported to the Statewide Central Register of Child Abuse and Maltreatment (SCR), New York State enacted a law authorizing a dual track child protective system [SSL §427-a]. The law prescribes the broad parameters of Family Assessment Response (FAR) and allows local departments of social services (LDSSs) that are authorized to establish a FAR program considerable flexibility to develop approaches that best match local resources, staffing capacity, and needs of families.

The law excludes reports containing allegations of sexual abuse, physical abuse, severe or repeated abuse, abandonment, and failure to thrive from consideration for FAR [SSL §427-a(3)(a)-(i)]. It also requires an initial assessment of child safety, and if a child is deemed unsafe, the report may not be handled using FAR [SSL §427-a(4)(c)]. LDSSs can opt to impose more restrictive eligibility criteria for assignment to FAR than those required by the statute [SSL §427-a(3), 18 NYCRR 432.13(b)(4)(ii)].

The law requires that the following basic activities and services be included in the FAR approach:

- Notice to the family of the intent to use FAR rather than a traditional CPS investigation
- An examination, with the family, of the family's strengths, concerns and needs
- Planning and provision of services, including case management where appropriate, that are responsive to the needs of the family and supportive of family stabilization
- A joint evaluation and assessment of the family's progress including ongoing, periodic assessments of safety and risk to the child [SSL §427-a(4)(d)(v)]

While the nature and intensity of services offered, staffing and supervisory structure, and collaboration with community partners can vary across participating LDSSs, all FAR programs incorporate the same basic principles and key practices:

- Families are treated as partners and are approached in a solution focused manner, such as calling parents to arrange a time to meet with the family instead of making an unannounced home visit or seeing the children at school without parental knowledge.
- In FAR, the LDSS aims to gain a holistic understanding of the family's functioning through a comprehensive assessment of safety, risk, strengths, and needs. There is no formal determination of whether child maltreatment occurred.
- Families lead the process of identifying needs, and appropriate resources and services, both formal and informal, that they feel will best meet their needs.

There is no "one size fits all" approach to families who come into contact with Child Protective Services (CPS). Instead, the type and intensity of the CPS response is based on the presence of imminent danger to the child, the level of future risk of child maltreatment, and the family's strengths and needs, thus offering a continuum of response appropriate to each family's unique situation. The LDSS caseworkers responsible for delivering FAR are trained in "solution-focused" practice techniques to engage family members in crafting and implementing solutions to any child safety or well-being concerns.

FAR started as a pilot program in 2007 and was made a permanent part of CPS in 2011. In 2014, New York State issued regulations that provide specific requirements for FAR [18 NYCRR 432.13]. The specific laws and regulations applicable to the FAR track are noted throughout this chapter.

## 1. Definition and description of FAR

FAR is defined in state regulation as an alternative child protective response to reports of child abuse and maltreatment in which no formal determination is made as to whether a child was abused or maltreated and is based on principles of family involvement and support consistent with maintaining the safety of the child. In FAR, the family and CPS jointly participate in a comprehensive assessment of the family's strengths, concerns, and needs, and plan for the provision of services that are responsive to the family's needs and promote family stabilization, for the purpose of reducing risks to children in the family [18 NYCRR 432.13(a)(1)].

CPS collaborates with families assigned to FAR to maintain the safety and well-being of children. The parents or persons legally responsible for the child (PLRs) participate voluntarily with CPS to assess the family's strengths, address any concerns, and plan for the provision of services that are responsive to the needs of the family and promotes their ongoing well-being.

An initial safety assessment is conducted to establish that each child is safe in their home followed by continuous assessments of safety and risk throughout the case; However; there is no investigation of specific allegations of abuse or maltreatment, and no determination of "indicated" or "unfounded" [18 NYCRR 432.13(a)(1)].

Instead, the objective of FAR is to reduce the risk to children by using a family-centered, family-led approach to effectively engage families in assessing their needs and strengths. FAR focuses on finding solutions to the family's needs instead of conducting a formal investigation and making a determination that a caregiver should or should not be substantiated for maltreatment. Respect for the family and collaboration with them are the foundations of FAR. The LDSS and the family jointly decide how to reduce future risk for children in the family by identifying the family's needs, strengths, and formal and informal resources.

## 2. Requirements for LDSS participation

An LDSS seeking to implement FAR must submit an application to OCFS, in which the LDSS must describe its plan for implementing its dual response.<sup>1</sup> OCFS must approve the LDSS's plan before the LDSS can implement FAR [SSL §427-a(2); 18 NYCRR 432.13(b)].

FAR is a CPS response; therefore, an LDSS staff addressing reports made to the SCR and assigned to FAR must be included within the LDSS' CPS unit. The only exception to this requirement is when an LDSS receives approval from OCFS to contract with a community agency to conduct some FAR duties [18 NYCRR 432.13(f)(3)]. However, when such a contractual program is approved, the LDSS CPS unit is still solely responsible for conducting the initial seven-day safety assessment and CPS must maintain overall responsibility for every case assigned to the FAR track [18 NYCRR 432.13(d)(2), 432.13(d)(4), 432.13(f)(3)(iv)(a)-(c)]. See **Section I.4, Contracting for FAR activities**, of this chapter for information about contracting with a community-based agency to conduct FAR work.

Any representative of an LDSS who engages in FAR must complete the CPS training required for all CPS staff in the state [SSL §421(5)(a)-(c); 18 NYCRR 432.13(f)(1)(ii)]. In addition, LDSS representatives may not be assigned responsibility for a FAR case before completing training on the Process and Practice of FAR, and they must complete additional FAR training within a timeframe specified by OCFS [18 NYCRR 432.13(f)(1)(ii)(b)].

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<sup>1</sup> A blank FAR Application can be found at:

<http://ocfs.state.nyenet/FAR/CPS/FAR%20Application%20Template.asp>. This website is accessible to child welfare workers in New York State, but is not accessible to the public

## B. Reports eligible for FAR

Although FAR is intended to give CPS the flexibility necessary to tailor its response to the unique needs of each family, there are general restrictions on its use and certain reports are prohibited from being assigned to the FAR track.

- CPS may only use FAR for familial reports. FAR cannot be used where there is a foster boarding home or where abuse or maltreatment allegedly occurred during the provision of child day care [SSL §427-a(1)].
- FAR may only be used in cases where children are not in immediate or impending danger of serious harm [SSL §427-a(4)(c); 18 NYCRR 432.13(d)]. It may only be used to address reports containing allegations of maltreatment, and may not be used for abuse allegations.
- FAR can only be used by an LDSS that has been authorized by OCFS [SSL §427-a(2); 18 NYCRR 432.13(b)(1)].
- FAR can only be used for reports that are assigned to the FAR track in CONNECTIONS (CONNX) [18 NYCRR 432.13(c)].

### 1. Restrictions on assigning reports to FAR

#### a. *Foster care and day care*

CPS may not assign reports coded “foster care” (**FC**) or “day care” (**DC**) to the FAR track; all such reports must be assigned to the Investigation track.

In addition, reports involving foster parents must be assigned to the CPS investigative track, even if the report is coded as “**Familial**.” If the subject of the report is a certified or approved foster parent, CPS must address the report with an investigation, even if the report involves the foster parent’s own children (biological or adopted).

#### b. *Child day care*

It is permissible to assign a report to FAR when the subject of the report is a child day care provider and the report is coded as **Familial**, provided the alleged maltreatment did *not* occur during the provision of child day care services. See **Chapter 7, Investigations in foster homes and child day care programs**, of this manual for more detailed information about addressing reports coded as **FC** or **DC**.

When deciding whether to assign a report to FAR where the subject is a child day care provider, CPS staff should consider the legal requirements for confidentiality applicable to FAR (described in **Section J, Confidentiality provisions**, of this chapter) CPS may not inform the supervising agency of a child day care program about a FAR report regarding a child care provider.

### 2. Allegations ineligible for FAR

State law prohibits assigning a report to FAR when the subject is alleged to have:

- Committed a sex offense defined in Article 130 of the Penal Law
- Allowed, permitted, or encouraged a child to engage in any act of prostitution or promoted prostitution of a child
- Committed an act of incest
- Allowed a child to engage in acts of sexual performance or sexual conduct

- Committed assault against a child
- Committed or attempted to commit manslaughter in the first or second degree
- Abandoned a child
- Subjected a child to severe or repeated abuse
- Neglected a child to the extent that it substantially endangers the child's physical or mental health, which may be referred to as a failure to thrive that has been diagnosed by a physician and is due to parental neglect [SSL §427-a(3)(i)].

CPS may not assign to FAR any report that involves a child fatality. All such reports must receive a CPS investigation [18 NYCRR 432.13(b)(4)(ii)(b)].

### 3. LDSS criteria for FAR inclusion

Each CPS participating in FAR may establish its own criteria concerning the types of reports it will accept for FAR track assignment, within the restrictions set by state law [SSL §427-a(3)].

When an LDSS submits its FAR application to OCFS, it must provide its screening criteria, which specify the types of allegations that the LDSS will and will not accept for assignment to FAR. To establish a robust FAR program, CPS's screening criteria for FAR should include a broad spectrum of cases encompassing a significant percentage of the LDSS' CPS reports. As an LDSS becomes more familiar with FAR, it may expand or otherwise adapt its screening criteria, but all changes must be approved by OCFS [18 NYCRR 432.13(b)(4)(ii)].

#### a. *Allegations eligible for FAR*

State law does not provide a list of allegations that are eligible for FAR; instead, it lists the types of allegations that *cannot* be assigned to FAR. Therefore, the allegations eligible for FAR assignment are, by inference, all other allegations. These include:

- Inadequate guardianship
- Lack of supervision
- Lack of food, clothing, shelter
- Medical neglect
- Educational neglect
- Lacerations, bruises, welts
- Excessive corporal punishment that does not rise to the level of abuse
- Failure to provide at least a minimum level of care for children due to the misuse of alcohol or drugs

#### b. *Using FAR for court-ordered investigations*

Nothing in the FAR statute prohibits the use of FAR in a court-ordered investigation (COI). A COI may be addressed with FAR, however, only if CPS and the Family Court agree to it. In order to use FAR for a COI, the court must comply with statutory limitations on its access to FAR information in the following manner:

- Information from an open FAR case (including a COI) may only be shared with a court when the court finds that the information is necessary for the determination of a matter before the court [SSL §427-a(5)(d)(vi); 18 NYCRR 432.13(g)(2)(vi)]. Thus,

the court order for the COI should include a finding that the court requires this information to determine the issue prompted the court to issue the COI.

- A court may issue an order to obtain information from an open FAR case only after providing notice to the subject of the report and all parties to the proceeding and giving them an opportunity to be heard on whether such an order should be issued. Thus, before a court issues an order for a COI and permits the LDSS to assign the case to FAR, the court must notify the parties in advance and give the parties an opportunity to be heard on the matter [SSL §427-a(5)(d)(vi); 18 NYCRR 432.13(g)(2)(vi)].
- As a practical matter, the court can seek consent from parties involved in the FAR process for information obtained by the LDSS to be submitted as part of the COI, and allow them to be heard on the matter. Once the order is issued, the LDSS would then have to complete its report and submit it to the court prior to closing the FAR case. FAR information cannot be shared with a court after a FAR case is closed.
- Courts may not directly access information contained in closed FAR reports for a COI or any other purpose [SSL §427-a(5)(d)(vi); 18 NYCRR 432.13(g)(4)]. However, there are limited circumstances in which a court may see information from closed FAR reports (see **Section J.3, Law Enforcement**, of this chapter).

## C. Determining the appropriate track assignment

It is the sole responsibility of the LDSS to decide on the appropriate track assignment of a new report from the SCR [SSL §427-a(4)(b); 18 NYCRR 432.13(c)(2)].

When a CPS using FAR receives a new report, it uses the same intake procedures as it uses for all reports, except staff must decide whether to initially assign the report to FAR or to investigation. A thorough and consistent screening process is essential for maintaining the effectiveness and efficiency of both the family assessment and investigative response pathways. It is important that an LDSS strives to select the most appropriate track for each report upon its receipt from the SCR.

CPS can change the track designation of a report in CONNX only once, and can make that change only within the first seven days after receiving the report [SSL §427-a(4)(c); 18 NYCRR 432.13(c)(4)].

Each CPS that uses FAR must have a written protocol for its staff to follow when determining whether to assign a new report to the investigative or FAR track [SSL §427-a(2)(a); 18 NYCRR 432.13(b)(4)(iii)]. The protocol must:

- Specify the types of allegations and situations (e.g., domestic violence) that the CPS will or will not consider for potential assignment to FAR;
- Designate the staff responsible for determining the initial track assignments for new reports from the SCR; and
- Describe how, if at all, the CPS will screen reports received during on-call hours for potential assignment to FAR.

The goal of the protocol is to protect the safety of children and provide for the appropriate track assignment.

### 1. Initial track assignment

When a new report is received from the SCR, staff uses the LDSS screening protocol to:

- Determine whether the report is eligible for the FAR track
- Decide if the report will be assigned to the CPS investigation or CPS FAR track
- Enter the initial track assignment into CONNX

When a report is eligible for FAR, CPS may use its discretion in making the initial assignment to either FAR or investigation. The decision may also be based upon prior knowledge of the family, previous CPS history, staff availability, or other factors.

#### ***Establishing a collaborative relationship***

If CPS is undecided as to whether a FAR-eligible report should initially be assigned to FAR or CPS investigation, it is usually best practice to initially assign the report to FAR. Using FAR from the beginning can be crucial in establishing the foundation for the cooperative relationship necessary for FAR to be successful. It may not be possible to establish a collaborative relationship later in the process.



### **a. Informing the family about FAR**

When a report is initially assigned to the FAR track, the LDSS must provide each parent, guardian, or PLR for the child named in the report with information about FAR and how it compares to the CPS investigations. This information enables the family to make an informed decision about voluntarily participating in FAR. The LDSS must inform the family that the individuals who will be working with the family in either track are mandated reporters who are required to report suspected child abuse or maltreatment, should this become a concern [SSL §427-a(4)(d)(i); 18 NYCRR 432.13(c)(3),432.13 (e)(2)(i)]. See **Section D.2.a** of this chapter, *Provide information and written notification to the family about FAR*,

### **b. Changing the initial track assignment**

If the family prefers an investigation rather than FAR, or if a child is found to be unsafe in the home during the seven-day safety assessment, the report must be moved to the investigative track in CONNX no later than seven days after receipt of the report [SSL §427-a(4)(c); 18 NYCRR 432.13(c)(4)(iii)].

After the initial assignment of a report to either FAR or investigation, the LDSS can *change the track assignment in CONNX* from FAR to Investigation, or from Investigation to FAR only one time. The change can be made only during the seven days after the report was made [SSL §427-a(4)(c); 18 NYCRR 432.13(c)(4)]. Because a track switch can be made only once, it is important that CPS make an accurate initial track assignment. Whenever a track change is made, the LDSS must document the reason for the change in progress notes [SSL §427-a(4)(c); 18 NYCRR 432.13(c)(4)(i)]. All case record documentation remains in the record when the track is changed.

## **2. Finalizing the track assignment**

Prior to finalizing the FAR track assignment, the LDSS must decide if assignment to FAR supports the needs of the family and safety of children. This entails reviewing all previous CPS history, meeting with all adults and children in the family and with other contacts, as appropriate, and completing a thorough initial seven-day safety assessment, using the same safety assessment instrument in CONNX as is used with an investigation [18 NYCRR 432.13(c)(4)(iii)].

### **a. Conditions necessary to finalize assignment to FAR track**

To finalize the assignment of a report to the FAR track, *all* of the following conditions must apply:

- **Compliance with state- and locally-designated screening criteria**

Allegations in the report must comply with all state and local exclusions. If a CPS report is initially assigned to the FAR track, and CPS decides during its initial safety assessment that conditions not described in the initial allegations make the report ineligible for FAR, CPS must re-assign the report to the investigative track.
- **Finding that children are safe in their homes**

The initial seven-day safety assessment must include a determination that each child named in the CPS report or known to be living in the household is safe in the home. In operative terms, this means that there is a safety decision of “1” or “2” in the initial safety assessment. If the safety decision score is “3” or higher, the report cannot be assigned to FAR. See **Section C.1** of this chapter, *Initial track assignment* for specific information about the seven-day safety assessment.

**Safety Decision 1:** No safety factors were identified at this time. Based on currently available information, there are no child(ren) likely to be in immediate or impending danger of serious harm. No safety plan/controlling interventions are necessary at this time.

**Safety Decision 2:** Safety factors exist, but do not rise to the level of immediate or impending danger of serious harm. No safety plan/controlling interventions are necessary at this time. However, identified safety factors have been/will be addressed with the parent(s)/caretaker(s) and reassessed.

- **Satisfactory record review**

CPS must review all previous SCR records and any additional case records the LDSS may have pertaining to members of the family. CPS assess if previous records indicate whether FAR would be an appropriate response to the current report.

- **No open CPS investigations**

If there is still an open investigation involving the family, the new report cannot be assigned to FAR. However, if there is an open FAR case, a new report should be assigned to the same FAR case, provided that the new report meets the FAR inclusion criteria.

- **Agreement by parents, guardians, and persons legally responsible (PLR)**

Participation in FAR is voluntary; a family cannot be compelled to choose FAR. The family must agree to participate in FAR and demonstrate their willingness to cooperate in completing a family assessment. The FAR track cannot be successful without family cooperation and participation. [18 NYCRR 432.13(c)(4)(iii)(d)].

### ***Relevance of the number of previous reports***

The number of previous reports or previous indications should not be the sole factor in determining whether a new report should be assigned to or excluded from FAR. CPS should assess whether FAR is likely to be a safe and successful approach in helping the family address any underlying problems. In some cases, the existence of numerous previous reports may be an indicator that the previous approach has not been successful in addressing the family's needs and that a different approach may be warranted.

### **3. When parents disagree about FAR participation**

In some cases, parents, guardians, or the persons legally responsible for the child disagree with each other about participating in FAR. This can occur where there are different living situations, some of which may affect the nature of the work that would be done in FAR – whether parents live in the same home or in separate homes, whether one parent has sole physical custody or both have custody, and whether one parent or both parent(s) are named as subjects. There may also be conflicts regarding FAR participation in situations in which there is domestic violence or where one parent wants to use the report to control or hurt the other parent.

When a report is eligible for FAR, a disagreement between caretakers about whether to participate in FAR does not automatically preclude CPS from offering FAR as an option [18 NYCRR 432.13(c)(4)(iii)(d)(2)]. It may be acceptable to proceed with FAR with the consent of only one parent, *if two conditions exist:*

1. There must be one parent *who is a subject of the report* and who consents to participate in FAR; *and*
2. CPS must believe there is a reasonable possibility that FAR can achieve positive results for the family and child.

The report may be assigned to FAR:

- Whether or not the non-consenting parent is named as a subject
- Whether or not the consenting parent lives with the child
- Whether or not the consenting parent has physical custody of the child

If CPS does not believe FAR is likely to achieve a positive result, then the report should not be assigned to FAR. This is especially important for situations in which there is an unwilling family member. It may be legally permissible to assign the report to FAR, but if there is no realistic possibility of FAR actually assisting the family, then FAR should not be used.

*If the only consenting parent is not a subject in the report, the case cannot be assigned to FAR.*

#### **4. Time limit for final track assignment**

After gathering enough information to complete the initial safety assessment, CPS, in consultation with a CPS supervisor, must make a final decision regarding the track assignment.

The decision of whether the report should continue to be addressed with FAR or be assigned to the CPS investigative track must be made no later than seven days after receipt of a report from the SCR [SSL 427-a(4)(c) 18 NYCRR 432.13(c)(4)]. Neither CPS nor the SCR can change the track assignment after seven days. Changing the track designation after the seventh day requires closing the report and calling in a new report to the SCR.

#### **5. Documenting the rationale for the track assignment**

After CPS completes the initial seven-day safety assessment and decides on the final track assignment for a new report, CPS must document the reasons for the final track assignment choice in the Comments section of the seven-day safety assessment. This applies to each report that is:

- Permanently assigned to FAR; or
- Initially assigned to FAR but subsequently assigned to the investigative track.

All information entered in the case record before the track assignment becomes permanent remains in the case record, irrespective of whether the track assignment is changed during the first seven days and irrespective of whether the report was first assigned to the FAR track or investigative track [18 NYCRR 432.13(c)(4), 432.13(d)(3)].

## D. Conducting the family assessment

As soon as a report is assigned to the FAR track, the LDSS should apply FAR principles in their work with the family and continue to do so until the report is either reassigned to the CPS investigative track or closed [18 NYCRR 432.13(e)(1)].

Family engagement and respect are core values of FAR. To engage a family, the LDSS must motivate and empower family members to recognize their strengths, needs, and resources, and to take an active role in ensuring the safety and well-being of their children and minimizing the future risk of harm.

### 1. Initial contact with the family

The LDSS should be respectful and cooperative from the very first contact with the family. It is important to begin contact in a manner that is consistent with the respectful, family-led paradigm that is essential to FAR. The first contact sets the tone for future engagement and can affect the family's decision to participate in FAR and their willingness to cooperate in resolving the relevant issues.

The LDSS should always try to make the first contact with the family by telephone, and should request to meet face-to-face [18 NYCRR 432.13(d)(1)]. By requesting to meet, the LDSS has

#### *Meeting with a child before meeting with the parent*

On rare occasions, it may be necessary for the LDSS to talk to a child at school without first obtaining the parent's permission and prior to scheduling the first meeting with the parent. For example, a report is received alleging inadequate guardianship. It is freezing cold and a 10-year old child arrived at school without a coat. The child is afraid to leave school, telling a teacher that sometimes he can't get into the house after school because his mom often forgets to leave a key and she has "been acting kind of weird" lately.

In this case, the LDSS would first contact the source of the report to gather information regarding the child's safety status in the home. If more information was needed, the LDSS would then try to contact the parent. If unable to contact the parent, and still lacking enough information to assess immediate safety, it might be necessary for the LDSS to see the child in school to assess and address the current situation. In conversation with the child, the LDSS can try to get more information to locate the parent.

already begun working toward a collaborative partnership. Whether the first contact is over the telephone or in person, the LDSS must advise the parents or person legally responsible for the child that an SCR report has been made and inform the parents about the concerns that necessitated the agency's response. The LDSS must also explain FAR to the parents and inform them CPS would like to assign the case to the FAR track [18 NYCRR 432.13(c)(3), 432.13(e)(2)]. If the first contact occurs by telephone, the LDSS should provide sufficient information without overwhelming the parents.

When scheduling the first face-to-face meeting, it is recommended that the LDSS ask the parent or person legally responsible for the care of the children to have all family members present. However, if there are any concerns related to domestic violence, it is advisable to have separate initial meetings. The LDSS should also advise the parent that a trusted friend or relative may be invited to be present for the visit. For more information on Domestic Violence, refer to Chapter

6, Section N. The LDSS should go the family's home without scheduling an initial meeting only if the LDSS is unable to verify within 24 hours that the children are safe in the home. If the LDSS arrives unannounced and can determine the children are not in immediate or impending danger of serious harm, the LDSS should make an appointment to return at a time that is convenient for the family.

The LDSS should avoid conferring with the child(ren) before meeting with the parent. Whenever possible, the LDSS should try to see the child in the home with the parent present.

When the LDSS cannot immediately verify a child's safety and cannot reach a parent to obtain permission, the LDSS should meet with the child. During the first contact with the parent, whether by phone or in person, the LDSS should explain why it was necessary to see the child without the parent's permission and should express regret at not being able to set up the meeting through the parent. The worker should be empathetic and express respect for the parent's role. The LDSS may be able to build rapport with the parent by being honest and demonstrating respect.

### ***Techniques for facilitating dialogue***

When gathering information to assess safety, strengths, family functioning, and the family's need for services, The LDSS should use a variety of tools and techniques to elicit the family's thoughts and encourage each family member to participate in conversations.

LDSS representatives engaged in FAR may utilize solution-focused practice techniques such as "Three Houses" and "Wizard and Fairy." These tools and others like them can be especially helpful with young children who find it hard to understand abstract concepts like safety. FAR training offers several techniques that can be used to assist children in expressing their feelings, concerns, and hopes for their family.

The effective use of solution-focused tools and techniques during contacts with the family assists in the assessment of safety, current well-being, risk, and in identifying protective factors with the family. See **Chapter 14**, Appendix, **Section N**, for a description of several of the techniques used in FAR cases.

## **2. Required casework activities**

### ***a. Provide information and written notification to the family about FAR***

CPS must provide the family with information about FAR to help family members make an informed decision about whether to accept assignment of the report to the FAR track. This information should be provided at the initial meeting with the family. Such information should include, but is not limited to:

- A verbal description of FAR and how voluntary participation in FAR is different from being the subject in a CPS investigation, including that a FAR report does not result in a determination. The LDSS should emphasize the importance of ongoing collaboration and provide information about the confidentiality of FAR records [18 NYCRR 432.13(e)(2)(ii)(a)-(c)].
- An explanation that all LDSS representatives, either providing the FAR response, or conducting a CPS investigation, are mandated reporters who are required to report reasonable suspicions of abuse or maltreatment [SSL §427-a(4)(d)(i); 18 NYCRR 432.13(e)(2)(i)(b)]

- An explanation that agreeing to FAR is voluntary and the parents have a choice to participate in FAR or have their case assigned to the CPS investigative track [18 NYCRR 432.13(e)(2)(ii)(d)]

No later than seven days after receiving a report that has been assigned to the FAR track, CPS must provide written notification of the report to every parent, guardian, or person legally responsible for the care of the children named in the report. Written notice of the report may not be given to any other persons [18 NYCRR 432.13(e)(2)(i)]. A “Notice of Existence for FAR Cases” is located in CONNX, in both English and Spanish. The LDSS must be careful not to use the “Notice of Existence for CPS Investigations.” If a prospective recipient of a Notice of Existence for FAR Cases has Limited English Proficiency, CPS must use the appropriate language services.

While all parents, including non-custodial and out-of-household parents, are entitled to receive notification of the existence of a FAR report, there is no legal requirement to further involve them in the FAR intervention. If there is a subsequent report during an open FAR case, CPS/FAR must verbally notify the participating parent(s) about the subsequent report [18 NYCRR 432.13(e)(2)(i)(d)]. The LDSS is not required to provide written notification of a consolidated subsequent report unless the parent requests it.

### ***b. Obtain the family’s consent to use FAR***

When engaging with a family to address the concerns of an SCR report, they must consent to the use of FAR. Verbal consent is sufficient and must be documented by the LDSS in CONNX. If the parents or caretakers do not consent to FAR and choose to have the report assigned to the CPS investigative track, the LDSS must honor that choice.

To participate in FAR, the family must agree to actively engage in ongoing meetings and discussions that are necessary to identify the family’s strengths and needs. Additionally, the family must agree to participate in developing effective strategies to address any current concerns and identified risks to the children in the home [18 NYCRR 432.13(c)(4)(iii)(d)(1)].

Refer to **Section C.3**, *When parents disagree about FAR participation*, of this chapter for information about what to do when parents disagree with each other about whether to participate in FAR.

### ***c. Complete the seven-day safety assessment***

Information about conducting the seven-day safety assessment and its essential role in FAR is in **Section D.2.c**, *Complete the seven-day safety assessment*, of this chapter.

### ***d. Engage the family***

Immediately upon the initial assignment of a report to the FAR track, the LDSS must work in partnership with the family participating in FAR [18 NYCRR 432.13(e)(2)(iii)]. The LDSS should be transparent with families regarding all actions that they take concerning the case. To the extent feasible, the LDSS should include all family members in discussions, including children who are old enough to express thoughts and opinions. The LDSS should encourage the family to include other persons who might be a resource, or can provide support for them, such as members of their extended family, clergy, close friends, etc.

In FAR, the focus is on gaining a holistic understanding of the family’s functioning. This is done through a comprehensive assessment of safety, risk, strengths, and needs—drawing from the knowledge of those who know the family best. The LDSS views and engages with

parents as partners in maintaining child safety, encouraging families to seek help when they need it. The FAR experience of engaging in a collaborative partnership may increase the family's trust in the child welfare system. Approaching FAR families in a collaborative manner may make them more receptive to actively engaging in needs and strengths assessments, problem solving, and services, if needed.

### ***Engaging absent parents***

When a parent is absent from a child's life, the LDSS should initiate a discussion with the participating parent about the other parent's absence, and explore with the parent whether the absent parent could provide a positive contribution in the child's life and well-being. Efforts should be made to determine if the absent parent should be included in the FAR process, when appropriate.

Although the law states that each parent, which would include non-custodial or out-of-household parents, must be notified of the existence of a FAR report [SSL §427-a(4)(d)(i)], there is no legal requirement to further involve them in the FAR process. The decision about including non-custodial parents or parents who live in another household should be based on the circumstances of the case, including the comfort of the subject parent or child, the presence of domestic violence, the current role and potential role of the absent parent, and any other circumstances particular to the case.

For information about cases where domestic violence is present, see **Chapter 6, Section J, Confidentiality provisions**.

### ***e. Complete at least one Family-Led Assessment Guide (FLAG)***

The LDSS must engage the family in a joint examination of current matters of concern, and identify the family's strengths, risks, and needs. The LDSS must use the Family-Led Assessment Guide (FLAG), as specified by OCFS, to document at least one such formal assessment for each FAR case [18 NYCRR 432.13(e)(2)(iv)]. The FLAG is also used to help plan with the family any services or assistance that might be helpful in reducing risk and increasing protective factors. The LDSS should collaborate with the family to complete the FLAG, not just provide the document to the family to complete on their own. Obtaining and discussing assessment information directly from the family, including children, is a key component of FAR.

The family-led assessment to complete the FLAG should be initiated as soon as possible, but at the latest no more than 30 days after receipt of the report [18 NYCRR 432.13(e)(2)(iv)]. The LDSS must complete at least one FLAG in CONNX before the case can be closed [18 NYCRR 432.13(e)(2)(iv)], but may complete multiple FLAGs. If the family's composition or situation changes dramatically, the LDSS should revise the FLAG or create a new one. In instances in which children live in two households that have different issues, best practice would be to conduct a separate FLAG for each home. Any additional or revised versions of the FLAG should be documented in CONNX.

The LDSS and the family should agree on a rating for each of the items in the FLAG. Each FLAG item has its own set of four rating definitions. The FLAG ratings correspond to action levels, as outlined below:

- 0 = a clear strength
- 1 = no need for service action, opportunities for strength building
- 2 = a need for services (or, for items with Service Status included, services were being received before the FAR case)
- 3 = a need for immediate or intensive service action
- NA = not applicable or not assessed

The factors addressed in the FLAG, listed by topic category, are:

*The Family Together*

- Housing Stability
- Physical Condition of the Home
- Financial Resources and Self-Sufficiency
- Relationships Among Siblings
- Communication and Conflict Resolution between Parents and Parents and Child
- Continuity of Care

*Children*

- Child's Relationship with Parents
- The Child's Health Status, including Medical and Dental Care
- Child's Education and Status of Educational Services
- Child's Developmental and Service Status
- Child's Interpersonal Skills and Service Status
- Child's High Risk Behaviors and Service Status
- Child's Mental Health and Service Status (including substance use or abuse)

*Caregivers*

- Primary Caregiver's Partner Relationship
- Caregiver's Vocational Functioning
- Caregiver's Mental Health and Service Status
- Caregiver's Alcohol and/or Drug Use and Service Status
- Caregiver's Supervision of Children
- Caregiver's Boundaries and Developmentally Appropriate Expectations of Children
- Caregiver's Disciplinary Practices with Children

*Caregiver's Advocacy Status*

- Caregiver's Knowledge and Attention to Family/Child Needs and Service Status



- Caregiver's Natural Supports<sup>2</sup>
- Caregiver's Problem Solving Ability
- Caregiver's Knowledge of Service Options and Ability to Access Services

The rating produced by completing the FLAG is *not* a rating of the risk of future abuse or maltreatment like that obtained from the Risk Assessment Profile (RAP). The FLAG is used to rate the family's strengths and needs. It acts as a catalyst for the family and the LDSS to consider and discuss the family's situation.

#### **f. *Conduct ongoing risk and safety assessments***

The LDSS must engage with the family in an ongoing joint evaluation and assessment of the family's progress, including making periodic assessments of risk to the child [18 NYCRR 432.13(e)(2)(v)].

The LDSS should be open and transparent with the family regarding the need for ongoing safety and risk assessments. They should use tools such as exception questions, which are taught in FAR training, to help the family identify what they already do or have done in the past to provide for their children's safety. This can help clarify how to plan to address any concerns regarding child well-being and reduce future risk for the children. The ongoing process of assessing safety includes gathering specific information from conversations, observing the family's interactions and functioning and reviewing known family history, with the goal of identifying the presence or absence of safety factors.

The LDSS must document assessments of risk in progress notes throughout the case [18 NYCRR 432.13(e)(5)(vi)].

#### **g. *Make casework contacts***

The number of casework contacts in a FAR case must be commensurate with the requirements for completing family assessments and for meeting the needs of the family. There are no specific casework contact requirements for FAR, unless the case is open for more than 90 days (see **Section I.2** of this chapter, *Supervision*) [18 NYCRR 432.13(e)(4)]. It is expected, however, that there will be several visits with the family, including with all children who are able to participate in discussions aimed at identifying and assessing needs, strengths, and solutions.

#### **h. *Focus on solutions***

When the LDSS and the family identify challenges to the family's ability to support the well-being of their children or meet their needs, the LDSS must offer to work jointly with the family to identify, develop, and implement solutions [18 NYCRR 432.13(e)(2)(vi)]. All family members should be included in this planning, to the extent feasible, and the family should be encouraged to include extended family or other people who may be helpful in the process.

Solutions are different than services and more than referrals. For example, implementing a solution might entail using natural, informal supports, such as extended family members, clergy, or neighbors, as resources. The LDSS should work with the family to explore and identify both formal and informal supports.

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<sup>2</sup> Natural supports are sources of help for the family that are not purchased services. This could include friends and extended family, a church, or other organization that can be relied on to provide useful help and support in times of need.

The LDSS should concentrate on the parents' ability to respond to any concerns facing their family or children. The LDSS should probe for concrete examples of how the family has faced similar risks in the past and what, if anything, is different now. When needs have been identified, the LDSS should ask family members solution-focused questions regarding what may improve their current situation. By working with the family to identify its strengths, the LDSS can assist a family in building a foundation that will support them long after the FAR case is closed.

#### **i. Offer needed services**

Where appropriate, the LDSS must offer assistance to the family in implementing solutions to their identified needs that are supportive of family functioning, meet the children's and parents' needs, and reduce risk to children in the family. Assistance may include providing information on services and supports available in their community, building supportive networks with extended family and community resources, advocating for the family with schools, landlords, and others, referring the family to government and privately funded programs, contacting service providers; and paying for goods (e.g., a new car seat) or services (e.g., bus tokens).

- A FAR client does *not* need to complete or sign an Application for Services to receive services under FAR, as is required to receive Preventive Services.
- Districts may use child protective, wraparound, or other funding sources to pay for goods and services provided through FAR.
- The acceptance of services or goods by families who are receiving FAR is voluntary. A family receiving FAR cannot be required to accept services [18 NYCRR 432.13(e)(2)(vii)(c)].

### **3. Closing a FAR report**

The LDSS must remain aware that FAR is intended to be a short-term protective service. FAR reports should usually be closed within 60 days, but can be open for 90 days under limited circumstances (i.e., the LDSS is assisting the family with a specific need). If the family needs services that cannot be provided within 90 days, the LDSS may open a preventive services case if the family is eligible and provides consent [18 NYCRR 432.13(e)(3)(v)(a)-(c)].

In extremely limited circumstances, a FAR report may be open over 90 days. This requires the LDSS to document the reason for keeping the report open, including specific goals and steps to attain those goals. The LDSS must also meet with the family at least once every two weeks and document each contact [18 NYCRR 432.13(e)(3)(v)(d)(1)-(2)].

The decision to close the case must be made in conjunction with the family, whenever possible. The case should be closed if the family and the LDSS agree that the family is providing adequate care for their children, the children are safe, and the family has no requests for services or supports [18 NYCRR 432.13(e)(3)(i)-(ii)].

If ongoing needs have been identified, the family should be given information regarding available resources in their community. The LDSS should offer to join the family when they are meeting with a new service provider for the first time [18 NYCRR 432.13(e)(3)(iii)]. It is important for the LDSS to assist the family as they transition to working with new service providers. This process, referred to as a "warm handoff", allows the LDSS to ease the transition to a new service provider and advise the new provider of the family's past progress and existing needs, and facilitate communications with the new service provider so the family is aware of what will happen next.

The LDSS may believe a family needs additional services, but they may decline to accept further assistance. If the LDSS is not aware of any current maltreatment or immediate danger of serious harm, the FAR case must nevertheless be closed [18 NYCRR 432.13(e)(3)(iv)].

The LDSS must notify the parents their report has been closed within seven days after closure [18 NYCRR 432.13(e)(2)(viii)]. There are notification letters in CONNX that are specific to FAR that may be used for this purpose.

While the LDSS must mail or hand-deliver a written notification, it is suggested that the LDSS engage in a discussion with the family as well. The written notice must inform the family and subjects that the FAR report is legally sealed and will be maintained for 10 years from the date the report was received by the SCR. The written notice must also inform the parents of the confidentiality provisions applicable to FAR records and that they have a right to access their own FAR records [18 NYCRR 432.13(e)(2)(viii)].

## E. Safety and risk assessments

The term **Safety** refers to whether there is immediate or impending danger of serious harm to a child's life or health as a result of acts of commission or omission (actions or inactions) by the child's parents, guardians, or persons legally responsible for the care of the child.

The term **Risk** refers to the probability that a child will be subjected to future abuse or maltreatment.

The purpose of a risk assessment in FAR is to identify the family's need for services to decrease the likelihood of future abuse or maltreatment. While an actuarial risk assessment tool (the RAP) is used in investigations, it is not required in FAR.

Child safety is the priority of all child welfare responses. Both the investigative and FAR tracks are designed to enable CPS to identify safety factors and assess risk, and to work with the family to increase safety and reduce risk. The specific method used in FAR, however, is to assess with the family what, if any, unmet needs are having a negative effect on the children's safety and well-being. Should there be unmet needs, the family is supported in taking the lead in identifying the resources, supports, and services that would work best for them. The emphasis is on strengthening the family's informal support system through the engagement of extended family, friends, and other contacts in the community such as clergy or teachers so that current needs are met, and the family is also better prepared to meet future needs on their own.

### 1. Initial safety assessment in FAR

Although the purpose of every initial, seven-day safety assessment is to determine the current safety of children, the assessment has an additional use in FAR. In FAR, this assessment is also used to assess if the report is eligible to remain in the FAR track [SSL §427-a(4)(c); 18 NYCRR 432.13(d)]. CPS can confirm the assignment of a report to the FAR track only if the seven-day safety assessment contains a finding that no child in the home is in immediate or impending danger of serious harm (see **Section D** of this chapter, *Conducting the family assessment*). CPS may also decide, based on the initial safety assessment, to change the assignment of a report from investigation to FAR, if the report is otherwise eligible for FAR.

The seven-day safety assessment must be conducted by the LDSS [18 NYCRR 432.13(d)]. Although the LDSS may, with OCFS approval, contract with a community-based agency to perform some FAR duties [18 NYCRR 432.13(f)(3)], a community-based agency employee may not conduct the seven-day safety assessment.

The LDSS must initiate an assessment of safety for a report assigned to the FAR track within 24 hours of receiving the report [SSL §427-a(4)(c); 18 NYCRR 432.13(d)]. A report may not be assigned to FAR if it contains allegations suggesting immediate or impending danger of serious harm to children. The LDSS *must* confirm, however, that the children are not in immediate or impending danger. This is done by reviewing the report, reviewing any prior CPS history the family may have, and contacting the source, the family, and/or collateral contacts [18 NYCRR 432.13(d)(1)].

### 2. Individual contacts

Within the first 24 hours, the LDSS must establish face-to-face or telephone contact with one or more persons who can provide information regarding the current safety of the children named in the report. This contact starts the safety assessment and lays the groundwork for future FAR work, but the immediate task is for the LDSS to determine whether the individual contacted has

information indicating whether or not the children named in the report are currently safe and not in danger of immediate or impending serious harm.

The LDSS must try to contact one or more of the following people to obtain information on the current safety of children, and to discuss other information applicable to the case, as appropriate. All efforts to obtain this information must be documented in progress notes in CONNX.

### **Source of the report**

Whenever possible, CPS should contact the source of the report before contacting the family. The source can confirm and possibly expand upon the details of the report and may be able to provide impressions of family functioning, strengths, and resources [18 NYCRR 432.13(d)(1)(i)]. CPS should use this interview to try to ascertain whether children in the family are currently safe. If the source does not offer that information without prompting, CPS should ask a direct question such as, “Do you believe that any of the children in the home are in immediate or impending danger of serious harm?” If the source does not know about the current safety of the children, CPS should ask the source if he or she can provide the name of another person who may have that information.

### **Subject(s) and other family members**

Whenever possible, the initial contact with the subject(s) of the report should be by telephone. In the initial contact with the family, CPS should inform the subject(s) about the existence of concerns stated in the report, initiate the safety assessment and begin engaging the family in the FAR process. During the initial contact, the LDSS and the family schedule the first face-to-face meeting [18 NYCRR 432.13(d)(1)(ii)].

If the LDSS has not been able to confirm through contact with the source or other contacts that children in the family are currently safe, and is unable to schedule a face-to-face appointment with the family within 24 hours of receipt of the report, the LDSS should ask the subject or other family member for the name and contact information of someone who might be able to confirm that children in the home are not in immediate or impending danger of serious harm. This contact could be a relative, neighbor, teacher, etc.

If the LDSS is unable to find anyone who can confirm that the children are currently safe, the LDSS may need to make an unannounced visit to the home within 24 hours or see the children in another venue. If this occurs, it is especially important that this initial contact with the family be conducted in a sensitive and non-confrontational manner consistent with the FAR approach (see **Section D.1** of this chapter, *Initial contact with the family*).

### **Collateral contacts**

CPS should interview any other persons who may be able to provide information as to whether any child is in immediate or impending danger of serious harm [18 NYCRR 432.13(d)(1)(iii)]. However, except for determining whether the children are safe immediately after receiving a report, in a FAR case CPS should not routinely initiate contacts with collaterals without first discussing it with the family and obtaining their consent.

### 3. CPS history review

The LDSS is required to review all SCR records relevant to the family, including sealed reports.

Within one business day of the oral report date, the LDSS must review SCR records of all prior reports involving members of the family, including any previous FAR and unfounded reports that involve a subject, child, or child's sibling named in the current FAR report. If the review of the SCR records shows that there are any previous CPS cases (including FAR cases) that were investigated or addressed by the CPS of another LDSS, CPS must request relevant hardcopy portions of the case record from any such LDSS. This request must be made within one business day of the oral report date. The LDSS must also review any additional hardcopy records that are relevant to the family and maintained by any LDSS within five business days of the oral report date [18 NYCRR 432.2(b)(3)(i)].

#### *How to use prior history*

Reviewing a family's prior history and current LDSS records may inform the LDSS how the family addressed previous safety concerns, how it may have addressed issues of child safety or well-being in the past, and whether the family has or is currently receiving services. The prior history may also reveal the level of cooperation exhibited by the family in the past and provide insight into what actions have or have not been successful.

Although reviewing previous CPS history may be informative, the LDSS must not allow themselves to become biased. Evidence of prior reports, including indicated reports, does not automatically make a family ineligible to participate in FAR for the current report. The LDSS must remain open-minded and engage the family based upon their present circumstances. The existence of previous reports may suggest that FAR could be more effective than repeated CPS investigations.

A review of the family's previous CPS history may provide insight into determining whether children are currently safe, but cannot be the only factor used to determine safety.

### 4. Conducting the initial safety assessment

During the seven-day assessment, the LDSS and the family assess the physical health and well-being of the children, including the child's living conditions, and identify any safety factors. Every child named in the report must be seen, and children who are developmentally capable should be engaged in the assessment process. The LDSS must use the safety criteria designated by OCFS to determine if there are one or more safety factors that present an immediate or impending danger of serious harm to any child, and make a decision regarding the children's safety status [18 NYCRR 432.13(d)(2)(i)].

The LDSS should ask the parents or caretakers to identify relevant collateral contacts. The LDSS should *not* routinely seek information from collateral contacts without first asking the family and receiving their agreement. Collateral contacts may include, but are not limited to, hospitals, family medical providers, schools; police, social services agencies and other agencies providing services to the family, relatives; extended family members; neighbors, and other persons who may provide information on the status of the child's safety [18 NYCRR 432.13(d)(2)(ii)].

The LDSS must apply the safety criteria in the OCFS-designated safety assessment to determine if one or more safety factors place a child in immediate or impending danger. When the LDSS enters the information gathered into the safety assessment in CONNX, a safety decision

regarding the child's safety status is generated. Using this information, the LDSS should determine whether:

- One or more safety factors are present
- Any of the identified safety factors place the child in immediate or impending danger of serious harm (safety decision number is higher than 2)
- There is a need to develop a safety plan to effectively remove the immediate or impending danger of serious harm to the child

If the safety decision number is 1 or 2, the assignment to the FAR track should be maintained, unless there is a compelling reason to change the assignment. If the safety decision number is 3 or higher, the report must be assigned to the CPS investigation track. If the safety decision requires a change from FAR to CPS investigation, the LDSS should discuss the reasons for the change with the family.

## 5. Documentation of the initial safety assessment

Safety assessments for FAR are recorded in CONNX in the same manner as safety assessments for CPS investigations. Safety assessments must be completed, recorded, and approved by a CPS supervisor within seven days of receipt of the report from the SCR [18 NYCRR 432.13(d)(3)].

When a report has been initially assigned to FAR and the seven-day safety assessment is complete, the LDSS must decide whether the report should remain assigned to the FAR track or be changed to the CPS investigation track. If the report is to remain assigned to the FAR track, the LDSS must document the reason(s) for this decision. Similarly, if the track assignment is changed from FAR to an investigation, the reason(s) for the change must be documented [18 NYCRR 428.5(c)(2), 432.13(e)(5)(iii)].

The LDSS also may change the track assignment of a report initially assigned to the investigative track, re-assigning it to the FAR track [18 NYCRR 432.2(b)(3)(ii)(g)]. While such a change is allowed, it is not the best way to begin working with a family. The LDSS may wish to exercise this option when a report was eligible for FAR, but the initial assignment was to the CPS investigation track. If the LDSS begins their investigation and determines the family would be better served by FAR, they may choose to reassign the report to the FAR track. Before making such a change, the LDSS must speak with the family, inform them about FAR, explain that participation in FAR is voluntary, and determine that the family is willing to participate in FAR. The reasons for this change must be documented.

Refer to the CONNX Family Assessment Response (FAR) Build Job Aid for guidance on properly documenting the safety assessment and other FAR activities in CONNX.

## 6. Ongoing safety assessments

After completing the initial, seven-day safety assessment, the LDSS is responsible for continually monitoring the safety of the children throughout their work with the family, until the FAR case is closed [18 NYCRR 432.13(d)(4)]. To comply with this requirement, the LDSS must continue to assess child safety in each interaction with the family.

## 7. Risk assessment

The LDSS is required to conduct ongoing, periodic risk assessments for all families participating in the FAR track [18 NYCRR 432.13(e)(2)(v)]. Risk is assessed in conversation with the family, including conversations about family history and current struggles. The LDSS observes family interactions, and solicits and discusses the family's concerns. These discussions should also include children who have the ability to participate.

While the FLAG was designed to document family needs and strengths, the topics addressed in this tool are similar to those in risk assessment instruments such as the RAP, so the FLAG can be helpful in generating conversations about the potential for future maltreatment and how to reduce risk. The LDSS should also use other engagement tools, taught in FAR training, to help generate conversations with family members, including children. See **Chapter 14, Appendices, Section N, *Documentation guidelines for Family Assessment Response (FAR) cases***, for a description of some of these tools.



## F. Documenting FAR activities

The LDSS is required to document all activities in CONNX [18 NYCRR 432.13(e)(5)]. This should include documenting the manner in which a collaborative FAR approach and process was used. The progress notes should reflect the discussions with the family, including the family's thoughts, opinions, and concerns; and any FAR techniques used. The LDSS should document the family's deliberative process and any decisions that were made. See **Chapter 14, Appendices, Section N, Documentation guidelines for Family Assessment Response (FAR) cases**, for detailed and specific information about documenting a FAR case.

Information to be documented in the FAR case record includes, but is not limited to:

- Demographic data for each child and family member and any "other persons" named in the report.
- Specific activities undertaken to initiate a safety assessment within 24 hours, including how the LDSS determined the children were safe. This information should be very specific, documenting questions asked, responses given and observations made.
- Findings of the initial, seven-day safety assessment. The LDSS must explain the reasons for assigning the report to the FAR track. Also, if a report is initially assigned to the FAR track, but later is changed to the investigation track, the reason for that change must be documented.
- A description of CPS's first contact with the family, including the manner in which the first meeting with the family was arranged. CPS must also document that he/she explained the FAR process to the family, describing the information provided to the family, and that the family consented to participate in FAR.
- The date and manner in which the family was notified in writing about the existence of the report.
- Information to complete at least one FLAG, based on discussions with the family. Any subsequent FLAGS should also be documented. CPS should document which family members participated and the conclusions reached in any discussions with the family.
- Each contact with the family and with collateral contacts, including who was present and what occurred during the meeting.
- Services that were offered to the family, the services that were accepted, and services provided directly and/or through contractual provider.
- Findings of periodic risk assessments, including information derived from the FLAG, the RAP (if used), discussions with the family, and the LDSS' observations.
- Evaluations and assessments of progress.
- A description of any ongoing plans for supportive services to be provided after the case is closed, if applicable.
- Factors allowing for the closing of the case and a description of any discussion with the family regarding the decision to close the case.

## G. Changing to investigation track after seven days

After the assignment of a report to the FAR track has been finalized, circumstances may occur that render the report no longer eligible for the FAR track. When this occurs, CPS must make a new report to the SCR. CPS must assign the new report to the investigation track and close the FAR report.

A report assigned to the FAR track ceases to be eligible for FAR in any of the following circumstances:

- *A subsequent report is received that is ineligible for FAR.* When a FAR case is open and a CPS receives a new report that is ineligible for FAR, CPS must close the FAR report and assign the subsequent report to the investigative track. Allegations from the FAR report should be addressed in the CPS investigation if there are outstanding concerns [SSL §427-a(4)(h); 18 NYCRR 432.13(c)(5)(ii)(b)].
- *There is evidence of abuse or immediate safety concerns.* The LDSS or a community-based agency who is working with the family discovers evidence of child abuse (not maltreatment), including sexual abuse, or otherwise has reasonable cause to suspect child abuse [SSL §427-a(4)(f)(i); 18 NYCRR 432.13(c)(5)(ii)(a)].
- *The family fails to cooperate and there is evidence of maltreatment.* The parent(s) refuse to cooperate with the LDSS in developing or implementing a plan to address the family's problems *and* there is evidence of, or reasonable cause to suspect, child maltreatment [SSL §427-a(4)(f)(ii); 18 NYCRR 432.13(c)(5)(ii)(a)].

### ***What is evidence of maltreatment?***

The fact that a parent ceases to cooperate is not cause to call in a new report to the SCR. A family's refusal to continue cooperating in the FAR process is not a form of maltreatment and is not reportable to the SCR. **There must be both a refusal to cooperate and evidence of maltreatment.**

For example, consider a report with an allegation of "Inadequate Food, Clothing, Shelter," alleging there was no food in the home and a child is begging neighbors for food. The LDSS meets with the family, finds the house is stocked with food, the children say they always have food, and the worker finds no safety factors. After about ten days, the family decides it no longer wishes to cooperate and tells the LDSS that he/she is no longer welcome in the home; the Family Led Assessment Guide (FLAG) was not completed. In this scenario, although the family ceased to cooperate, there was no evidence of maltreatment. Therefore, the LDSS should not call in a new report.

If the family refuses to cooperate and the LDSS has not had an opportunity to assess whether or not there is evidence of the maltreatment specified in the report, the allegations in the *original* report can be considered sufficient evidence of maltreatment for the LDSS to make a new report. The LDSS should make a new report based on the original allegations. The fact that there *could* be other maltreatment for which no evidence has been observed is not evidence of maltreatment.

Finally, if there is a failure to cooperate and the LDSS has seen evidence of maltreatment, either as alleged in the FAR report or some other instance of maltreatment, the LDSS must call in a new report.

When any of these circumstances occur, the LDSS should use the closing reason "FAR ineligible, INV opened" in CONNX, which allows the FAR report to be closed without completing a FLAG. The LDSS must document the reasons for closing the case and should identify the new report in progress notes.

When a FAR case is closed and an investigation is opened for one of these reasons, the LDSS must ensure that anyone who has been working with the family and individuals recently assigned to the new case, communicate with each other to the extent practicable to minimize the disruption of any services being provided and coordinate with existing services being provided [SSL §427-a(4)(h)].

## H. Addressing a subsequent report for an open FAR case

When there is an open FAR report for a family and the LDSS receives a new report from the SCR involving the same family, the LDSS must decide if the subsequent report can be assigned to FAR.

- If the new report is ineligible for FAR, it is assigned to the investigation track and the open FAR report must be closed [SSL §427-a(4)(h); 18 NYCRR 432.13(c)(5)(ii)]. A family cannot have an open FAR report and an open investigation report at the same time.
- If the subsequent report is eligible for FAR, it is assigned to FAR and incorporated into the same FAR case, if possible.

### 1. Subsequent report assigned to CPS investigative track

When a FAR report is closed at the same time an investigation is begun, The LDSS must work cooperatively with any community-based agency, or individuals who were working with the family in FAR to minimize the disruption of any existing services being provided to the family [SSL §427-a(4)(h)].

If the same representative of the LDSS that has been working with the family on the FAR track is assigned to conduct the investigation, he/she should meet with the family to discuss the new report and explain the reasons that LDSS must respond to the report with an investigation. If a new representative of the LDSS is assigned to conduct the investigation, the LDSS should facilitate an exchange of information to discuss the family's needs, ideally with the family and all representatives of the LDSS involved. Regardless of whether or not a new representative of the LDSS is assigned to the investigation, the concerns addressed in the FAR process should continue to be part of the conversation with family.

When closing the FAR report in these circumstances, the LDSS should use the CONNX closing reason "FAR ineligible, INV opened." This allows the system to close the FAR report without requiring the completion of a FLAG. The LDSS must document in the progress notes the reason for closing the case and that the concerns will continue to be addressed in a CPS investigation.

The LDSS conducting the investigation may include information from the closed FAR report in the progress notes of the investigation, but only if that information that is *relevant* to the subsequent report [SSL §427-a(5)(e)(iii); 18 NYCRR 432.13(c)(5)(iii)]. Information in FAR records is legally sealed and may only be disclosed under very limited circumstances specified in the law [SSL §427-a(4)(c)(i), 427-a(5)(d); 18 NYCRR 432.13(g)]. Any information from a FAR record that is added to the record of an investigation becomes part of that record and subject to the rules regarding disclosure of investigation records [SSL §427-a(5)(e)(iii)].

### 2. Subsequent report assigned to the FAR track

If there is an open FAR report and a new report involving the same family is received that is eligible for FAR, the new report is added to the open FAR case and often consolidated with the open report. If, however, a subsequent report involves the same family but a separate household, it may be preferable to maintain two separate reports under the same case ID.

Please note, when there are two households and the subsequent report is consolidated, separate safety assessments and FLAGs should be completed for each household.

Whenever there is an open FAR case and the DSS receives a subsequent report, the LDSS must inform the family about the new report and discuss the concerns identified in it [18 NYCRR

432.13(e)(2)(i)(d)]. The LDSS is not required to provide the parents with a new written notification of the subsequent report unless a parent requests one.

The LDSS must always initiate an assessment of the current safety of the children within 24 hours of receipt of a subsequent report and document their findings in progress notes. This assessment may be made by phone or face-to-face contact with the source or a collateral contact, or by contacting the child or family directly [SSL §427-a(4)(c); 18 NYCRR 432.13(d)]. If the reports are consolidated, there is not requirement to conduct a complete seven-day safety assessment. If reports are not consolidated, the system will require a new seven-day safety assessment and a new FLAG for a subsequent report.

### ***Consolidating FAR reports***

Rules for report consolidation are the same for FAR as for investigation consolidation. If the timing is right and the reports involve the same family and similar allegations, the reports may be consolidated (see **Chapter 4**, *Special Circumstances in Report Processing* for information about consolidating reports). In deciding whether to consolidate a subsequent report with an open FAR report, the LDSS should consider whether there will be time to adequately address the concerns in the subsequent report and still close the open report in a timely manner.

## I. FAR administrative requirements

### 1. Education and training of LDSS representatives

The minimum education and training standards for CPS investigators, as specified in New York State regulations is required for any representative of an LDSS or community based agency responding with the FAR track [18 NYCRR 432.13(f)(1)(ii)(a), 432.13(f)(3)(ii)]. LDSS representatives providing the FAR response must also fulfill any other requirements applicable to all staff, such as experience, employment, personal references, criminal background attestation, and a SCR database check [18 NYCRR 432.13(f)(1)(iii)].

Individuals providing the FAR response must also complete FAR training, as specified by OCFS [18 NYCRR 432.13(f)(1)(ii)(b)].

### 2. Supervision

An LDSS supervisor must review the assessments and decisions made by the LDSS representative providing the FAR response, including, at a minimum, progress notes, the initial seven-day safety assessment, the decision of whether to assign a report to FAR or an investigation, the completed Family Led Assessment Guide, and the decision to close the case [18 NYCRR 432.13(f)(1)(iv)(a)-(b)].

### 3. Case assignments

Each LDSS implementing FAR must develop a plan, to be approved by OCFS, describing its program organization, staffing plan, and case assignment process [SSL §427-a(2); 18 NYCRR 432.13(f)(1)(v)(a)]. The plan must include:

- A description of the policy and process for assigning reports to the FAR track, including whether FAR cases are assigned to CPS staff who are dedicated exclusively to FAR or to staff who work on both FAR and investigations
- If the LDSS permits CPS investigators to be assigned to cases in both tracks, a description of the measures that the LDSS will take to maintain the integrity of both approaches, including a description of the measures that will be taken to support such staff
- The number of staff and supervisors that may be assigned to cases in both the FAR track and the investigative track
- The number of staff and supervisors to be assigned exclusively to FAR cases, including staff of any community-based agency that will perform FAR activities

### 4. Contracting for FAR activities

An LDSS may contract with a qualified community-based preventive services agency to work with families to provide FAR activities, including needs assessment, the identification of services to address identified needs, and the provision of services [SSL §427-a(4)(e)]. Any such contractual agreement between an LDSS and a community agency must [18 NYCRR 432.13(f)(3)(i)-(iv)]:

- Adhere to all laws and regulations applicable to FAR

- Require staff at the community-based agency to meet the minimum education and training requirements for LDSS representatives, as specified in state regulations and by OCFS;
- Require the community-based agency to inform the LDSS if staff of the community-based agency find that a FAR report is no longer eligible for FAR and should be in the CPS investigative track; and, when this occurs, a staff member of the community-based agency must immediately make a report to the SCR.
- State that CPS retains responsibility, at a minimum, for the following:
  - Conducting the initial seven-day safety assessment;
  - Deciding whether to assign an SCR report to the CPS FAR track or to the CPS investigative track; and
  - Approving the closing of the FAR report.

## J. Confidentiality provisions

The confidentiality provisions applicable to case records for CPS investigations do not apply to records for FAR cases. There are specific state laws governing the confidentiality of FAR records [SSL §427-a(5)(d); 18 NYCRR 432.13(g)].

The records of a FAR report are legally sealed from the date the report is finally assigned to the FAR track [SSL §427-a(4)(c)(i)]. FAR records are maintained at the SCR for ten years from the date the report was made [SSL §427-a(5)(c); 18 NYCRR 432.13(g)(1)].

### 1. Entities with access to FAR records

All reports assigned to FAR and records created as part of FAR, including reports made or written as well as any other information obtained or photographs taken concerning such reports or records, are confidential [SSL §427-a(5)(d); 18 NYCRR 432.13(g)(2)]. FAR reports or information in FAR reports can only be made available to [18 NYCRR 432.13(g)(2)(i)-(vi)]:

- Staff of OCFS, and persons designated by OCFS, that include, but are not limited to:
  - Local or regional child fatality review team members, if the child fatality review team is preparing a fatality report pursuant to SSL §§ 20, 422-b
  - Members of a local or regional multidisciplinary investigative team (MDT) established pursuant to SSL §423(6), when the MDT is investigating a subsequent report of suspected child abuse or maltreatment involving a member of a family who was part of a FAR case; only that information from the FAR record that is relevant to the subsequent report may be entered into the record of the subsequent report that is to be provided to the MDT
  - Citizen Review Panels established pursuant to SSL §371-b, if any information obtained is not to be re-disclosed and will only be used for the purposes described by law
- The CPS responsible for the FAR case
- Community-based agencies that have contracts with the LDSS to carry out activities for the LDSS under FAR
- Providers of services under FAR
- A CPS investigating a subsequent report of abuse or maltreatment involving the same subject or the same child or children named in the report
- The subject of the report, but *not* any other persons named in the report
- Courts, but only under specific circumstances, described in **Section J.2, Court access to FAR records**, of this chapter.

### 2. Court access to FAR records

#### ***FAR case is still open***

A court may receive information from the record of an *open* FAR case, but only under the following conditions:

- The court makes a judicial finding that such reports, records, and any information concerning them are necessary for the determination of an issue before the court; *and*



- The court first gives notice and an opportunity for the subject of the report and all parties to the proceeding to be heard; *and*
- The court issues an order or a subpoena requesting the record.

Upon receiving the court order or subpoena, the LDSS must submit the FAR reports, records, or information to the court for its inspection and follow any directions of the court as may be necessary to protect confidentiality, including but not limited to, redaction of portions of the reports, records, and information [SSL §427-a(5)(d)(vi); 18 NYCRR 432.13(g)(3)].

#### ***FAR case is closed***

A court may not access sealed FAR records, reports, or other information, except when:

- The information is made part of a subsequent CPS report and an LDSS initiates an Article 10 proceeding regarding the subsequent report, *or*
- The information is voluntarily presented by a subject of a closed FAR report.

### **3. Law enforcement**

New York State law does not authorize LDSSs to provide information from FAR records or reports to law enforcement, including to a district attorney. Therefore, agreements between LDSSs and law enforcement agencies or district attorneys in which the LDSS systematically informs the district attorney or law enforcement agencies about certain reports are not applicable to reports that are assigned to FAR.

However, when information from a FAR report has been added to a report that is assigned to the investigative track because it is relevant to that investigation, all information in the record of the investigation can be shared to the extent permitted by law (see **Chapter 6, *Child Protective Services Investigation, Section H, Evaluation of need for protective removal***).

### **4. Mandated reporters**

New York State law does not authorize LDSSs to provide information from FAR records or reports to mandated reporters. When a report is assigned to an investigation, the LDSS informs the mandated reporter, upon request, about the outcome of the report. As there is no determination for a report assigned to FAR, if a mandated reporter asks about such a report, the LDSS may inform the mandated reporter only that the report is being addressed by FAR. It could be helpful for the LDSS to provide general information about the FAR process to the mandated reporter.

A letter is available in CONNX for an LDSS to use to respond to a mandated reporter who asks for information about a report he/she made that was assigned to the FAR track.

### **5. Re-disclosure of FAR information**

Persons who are given access to legally sealed FAR reports are not permitted to re-disclose such records, reports, or information, except as follows [SSL §427-a(5)(e)(i)-(iv); 18 NYCRR 432.13(g)(5)(i)-(iv)]:

- OCFS and LDSSs may disclose aggregate, non-client identifiable information.
- LDSSs, community-based agencies that have approved contracts for the provision of some FAR duties, and providers of services for FAR may exchange FAR reports, records

and other information as necessary to carry out activities and services related to the same person(s) or persons addressed in the records of a FAR case.

- CPS may unseal a FAR report, record, or information when the record is relevant to a subsequent report of suspected child abuse and maltreatment.
  - CPS may use the information for purposes of the investigation of the subsequent report, and may include the relevant information from the FAR record in the record of the subsequent report. CPS should include only the information that is relevant to the new investigation.
  - If CPS initiates an Article 10 proceeding in conjunction with a subsequent report, and information included in a previous FAR report is relevant to the proceeding, CPS must include the relevant information from the FAR record in the record of the investigation of the subsequent report and make that information available to the family court and the other parties for use in the Article 10 proceeding. The Family Court may consider the relevant information from the previous FAR case in making any determinations in the proceeding.
  - The relevant Information from a FAR case that is included in the record of a subsequent investigation then becomes subject to the laws and regulations regarding confidentiality that apply to the record of the investigation of the subsequent report.
- At his/her discretion, the subject of a FAR report may, present a report, records, and information concerning such report and records from the FAR case, in whole or in part, in any Article 10 proceeding in which the subject is a respondent. A subject of the report also may, at his or her discretion, present information from a FAR report, in whole or in part, in any proceeding involving custody or visitation or in any other relevant proceeding. In making any determination in such a proceeding, the court may consider any portion of the FAR report or records presented by the subject of the report that is relevant to the proceeding. However, a court is *not* authorized to order the subject to produce a FAR report, records or information, in whole or in part.

## **K. Hearings and expungements**

A subject of a report assigned to FAR does not have a right to administrative appeal under [SSL §422\(8\)](#) or [§424](#) because there is no determination made in a report assigned to FAR.

A subject of a report assigned to FAR does not have a right to seek early expungement of the FAR report under [SSL §422\(5\)\(c\)](#).