



Office of Children and Family Services

Andrew M. Cuomo
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Commissioner

Administrative Directive

Transmittal:	20-OCFS-ADM-14
To:	Commissioners of Social Services
Issuing Division/Office:	Division of Child Care Services
Date:	August 24, 2020
Subject:	Guidance on Child Care Subsidy and Remote Learning
Suggested Distribution:	Directors of Social Services Directors of Services Directors of Temporary Assistance Supervisors of Day Care Supervisors of Temporary Assistance Child Care Assistance Staff
Contact Person(s):	Child Care Subsidy Program questions: <ul style="list-style-type: none"> Maryellen DeCicco, OCFS Division of Child Care Services: 518-408-3395, Maryellen.DeCicco@ocfs.ny.gov ocfs.sm.districtsupport.subsidy@ocfs.ny.gov
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
05-OCFS-ADM-03		18 NYCRR Part 415	410-w		

I. Purpose

The purpose of this Administrative Directive (ADM) is to direct local social services districts (LSSDs) on how to handle eligibility determinations and authorizations for child care assistance during periods when school-age children are engaged in remote, virtual, or online schoolwork or instruction (hereafter referred to as remote learning) in a child care setting.

II. Background

On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order (EO) 202, declaring a disaster emergency for the entire State of New York due to the COVID-19 pandemic. On March 16, 2020, Governor Cuomo issued EO 202.4, ordering all schools to close no later than March 18, 2020. Subsequent EOs 202.11, 202.14, 202.18, and 202.28 extended such closure through the remainder of the 2019-2020 school year.

On June 5, 2020, Governor Cuomo issued EO 202.37, allowing in-person special education services and instruction during the summer term, provided that any district offering such services follow state and federal guidance. On July 13, 2020, Governor Cuomo announced that schools in Phase IV can reopen if daily infection rate remains below 5 percent using a 14-day average. At that time, it was also announced that schools must close if the regional infection rate rises over 9 percent after August 1, 2020. On August 7, 2020, Governor Cuomo announced that based on each region's infection rate, schools across the state were permitted to open in the fall. The determination of how individual school districts would reopen, in person, via a hybrid model, or fully remote, was made by the local school districts under strict New York State Department of Health guidelines. School districts were required to submit their reopening plans to the state by July 31, 2020. School districts were also directed to post remote learning plans online as well as plans for testing and tracing students and teachers, should it be necessary. Many school district reopening plans contain remote learning for students on some or all school days. Schools may require or give families the option of remote learning on some or all days. Families must make the remote learning decision, where it is available, in advance of the start of the 2020-21 school year according to the deadline set forth by their school district.

Due to the impact of the COVID-19 pandemic on the 2020-2021 school year, on August 10, 2020, the federal Office of Child Care released new guidance clarifying that lead agencies may use Child Care Development Fund dollars for child care assistance when children are completing remote, virtual, or online schoolwork or instruction while in a child care setting.

To align with this federal guidance, OCFS adopted emergency regulations on August 19, 2020 to clarify that school-age children may attend child care programs during the academic school year when such children are not required to be physically present in school as part of the regular school day.

III. Program Implications

Effective August 19, 2020, school-age children may attend child care programs during the academic school year when such children are not required to be physically present in school as part of the regular school day. While in attendance at the child care program, school-age children may participate in remote learning. Such learning time may follow a set schedule, similar to an in-school school day, or it may be self-directed where schoolwork may be done at different times of the day or week. Whether the school's remote learning follows a set schedule or not, it is still considered part of the school system and should not be confused with formal home schooling, hereafter referred to as home instruction.

Remote learning offered by schools differs from home instruction in that remote learning is provided by the school district, and school district personnel remain the teacher of record for the child. Whereas home instruction is when a parent or other person in parental relation to the child provides written notice to the superintendent of their intention to educate their child at home, submit an individualized home instruction plan, and submit quarterly reports and annual assessments. In home instruction, the parent or other person in parental relation to the child is the teacher of record, even if parents engage the services of a tutor to provide all or a portion of instruction to the child.

Home instruction is not eligible for child care subsidy payments, whereas remote learning through the child's school is eligible for child care subsidy payments even when the child participates in remote learning while receiving child care services from an eligible provider. Families who choose home instruction for their children may be eligible to receive child care assistance as long as the child care subsidy is not for the time while the child is receiving home instruction.

IV. Required Action

When all applicable eligibility requirements are otherwise met, LSSDs must authorize child care assistance for school-age children when such children are not required to be physically present in school as part of the regular school day consistent with existing eligibility standards. LSSDs must pay providers the actual cost of child care up to the applicable market rates during such time when children are in care. Child care subsidies must be paid for the entire duration of a child's daily attendance in child care, including the time spent in remote learning as well as the time spent in other activities. Child care assistance must not be authorized for time that is spent on home instruction.

LSSDs must collect information for each child's in-person and remote learning schedule as it pertains to the need for child care and maintain appropriate documentation to support the determination to approve or disapprove hours of child care assistance during the school day.

V. Systems Implications

For LSSDs outside New York City, the Child Care Time and Attendance (CCTA) system allows LSSDs to set up school schedules to process payments for school-aged children. LSSDs will likely need to set up additional school calendars to accommodate the varied plans of the school districts in their area. CCTA does not limit the number of different school calendars that may be entered. LSSDs will also need to collect information for each child's school schedule and set up the schedules in CCTA accordingly by associating children's authorizations with the appropriate school calendar. On remote learning days, children are considered to be engaging in schoolwork, even though they are not required to be physically present in school, and may attend child care on those days. The time when children are engaging in schoolwork while in child care should be included in the authorized child care schedule. For the purpose of processing child care subsidy payments, remote learning days would be associated with "non-school day schedule" in CCTA because these are days when a child is not required to be physically present at school.

VI. Effective Date

The effective date of this release is upon issuance.

/s/ Janice M. Molnar, Ph.D.

Issued by:

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