

MEMORANDUM OF AGREEMENT

This agreement made this 1st day of January 2017 between the Cortland County Department of Social Services (hereinafter referred to as the Department) and the Cortland County District Attorney's Office (hereinafter referred to as the District Attorney).

Whereas, 18 NYCRR 348 and 399 requires the Department to enter into a written agreement with the District Attorney where intentional program violations are alleged,

Now, therefore, it is agreed as follows:

I. The Department shall:

1. Have all instances of suspected fraud referred to the Department's Investigation Unit.
2. The Investigation Unit will conduct a thorough investigation to determine if the allegations are factual.
3. When the facts warrant criminal prosecution, the Department, or a law enforcement entity under contract with the Department to perform investigations, will follow the direction of the District Attorney regarding the appropriate course of action.
4. Take no action to initiate recovery of the alleged overpayment and/or over-issuance when the facts warrant criminal prosecution, as doing so could prejudice the prosecution.
5. Accept restitution, upon the request and direction of the District Attorney, and subsequently advise the District Attorney promptly whenever restitution is paid.
6. If the Department wishes for the District Attorney to consider an offer of a Disqualification Consent Agreement (hereinafter referred to as a DCA), the Department will make a request in writing to the District Attorney and will attach a case summary. The District Attorney may also choose to pursue a DCA based upon case circumstances post-arrest. For this procedure, please refer to Section II (2).
7. Should the Department conclude that criminal prosecution is not warranted or if the District Attorney declines prosecution, the Department may choose to proceed with an Administrative Disqualification Hearing pursuant to 18 NYCRR sections 359.5-359.8 and 399.7.
8. Designate a liaison person for the District Attorney to communicate with.

II. The District Attorney shall:

1. Where it is determined that a crime has occurred, the District Attorney will make a determination to prosecute the offender by submission of evidence to the Grand Jury or referring to a local law enforcement agency for filing the appropriate accusatory instrument.

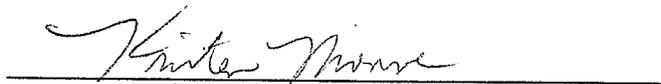
2. The District Attorney may also choose to pursue a Disqualification Consent Agreement (DCA) based upon case circumstances post-arrest. If the District Attorney agrees to proceed with a DCA, they will furnish the Notification of the Consequences of Signing the Disqualification Consent Agreement (hereinafter referred to as DCA) to the accused, at least ten (10) days prior to the execution of the DCA. A copy of this notification will be immediately forwarded to the Department. This notification will instruct the accused to contact the Department to sign the DCA form. If a DCA is obtained by the Department, a copy of the signed DCA will be furnished to the District Attorney. If the accused refuses to sign the DCA, the District Attorney will be notified to pursue prosecution. These actions will follow the guidelines pursuant to 18 NYCRR sections 359.4 and 399.4
2. Should the District Attorney decline prosecution of a case, they will notify the Department of this within 10 days of their decision, either in writing or through email, so that the Department can proceed with an Administrative Disqualification Hearing.
3. Case determinations will be provided to the Department in writing, within thirty (30) days of the case disposition so that timely sanctions can be imposed by the Department.
4. Designate a liaison person for the Department to communicate with.

III. Terms

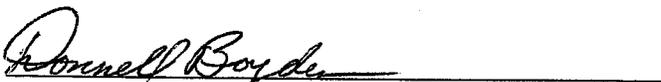
1. Either party may terminate this MOU by thirty (30) days written notice to the other party.


 Patrick Perfetti
 Cortland County District Attorney

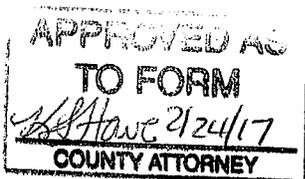
2/7/17
 Date


 Kristen Monroe, Commissioner
 Cortland County Department of Social Services

2/16/17
 Date


 Donnell Boyden, Chairman
 Cortland County Legislature

2-24-17
 Date

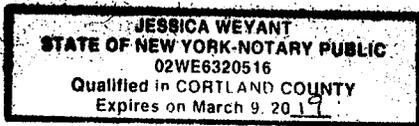


STATE OF NEW YORK)

SS:

COUNTY OF CORTLAND)

On the 9th day of February, in the year 2009¹⁷ before me, the undersigned, personally appeared Patrick A. Perfetti, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



[Signature]

Notary Public

STATE OF NEW YORK)

SS:

COUNTY OF CORTLAND)

On the 11th day of February, in the year 2009¹⁷ before me, the undersigned, personally appeared Kristen Monroe, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

BETHANN M. PELSANG
Notary Public, State of New York
No. 01PE6119827
Qualified in Cortland County
Commission Expires Dec. 6, 2020

[Signature]

Notary Public

STATE OF NEW YORK)

SS:

COUNTY OF CORTLAND)

On the 24 day of Feb, in the year 2009¹⁷ before me, the undersigned, personally appeared Donnell Boyden, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]

Notary Public

Investigative Unit Operations Plan

County: Cortland
Contact Person: Brian Moore
Title: Director of Services
Phone #: 607-753-5346
E-mail Address: Brian.Moore@dfa.state.ny.us

1. What unit is responsible for the investigation of client fraud allegations?

Please provide the name of the unit, # of positions, titles of positions, and how allegations are processed.

The Investigation Unit is responsible for the investigation and prosecution of client fraud. The Unit consists of four staff: one FT Social Welfare Manager, one FT Senior Social Welfare Examiner, and one FT contracted Sheriff's Investigator.

Upon receipt of an allegation, a review is completed by the Unit Manager to determine if there is a basis to pursue the matter. If there is not, as per the information reported to the Department, the matter is closed. If inconsistencies exist, the complaint is assigned to the Senior Social Welfare Examiner or the contracted Sheriff's Investigator to pursue. Upon completion of the investigation, the case file is returned to the Unit Manager for review and determination whether further action is warranted.

2. What unit is responsible for the prosecution of client fraud allegations?

Please provide the name of the unit, # of positions, titles of positions, and how allegations are processed.

Same process as noted in Question 1. Our internal contracted Sheriff's Department Investigator handles all arrests made, after discussion and agreement with the Unit Manager. Prosecutions are handled by an assigned Assistant District Attorney.

3. What unit is responsible for determining the overpayment amount, establishing the claim, and collection activities?

The Investigation Unit is responsible for determining the overpayment on fraud cases and establishment of the claim.

After the resolution of a case, the District Attorney's Office will advise the Department of Social Services on the matter of restitution. This will include the amount to be paid and how payments will be made to the Department.

4. What are the step by step procedures for the referral of fraud cases for administrative hearings, including the notices provided and the timing of providing such notices?

Cortland County does not utilize the Administrative Hearing process.

5. What are the step by step procedures for the referral of fraud cases to your District Attorney, including the notices provided and the timing of providing such notices?

Cases are not referred to the District Attorney prior to arrest. As Cortland County has a contracted Sheriff's Department Investigator on staff, in those instances where it has been determined that fraud exists, the Investigator makes an arrest or an appearance ticket is issued to the individual. The Investigator then prepares and delivers an arrest and evidence packet to the District Attorney's Office. If there is a situation where a question exists about the feasibility of an arrest and prosecution, the Investigator will contact the District Attorney's Office to discuss the matter prior to arrest.

6. What are your procedures for offering a Disqualification Consent Agreement (DCA)?

If the investigation substantiates the allegation and the circumstances meet the guidelines set forth by the Memorandum of Agreement (MOU) with the District Attorney's Office, our contracted Sheriff's Investigator will pursue an arrest. The Department may make a request for the District Attorney to consider pursuing a DCA, or the District Attorney has the discretion to offer a DCA as part of a plea offer.

Cortland County does not offer individuals the opportunity to sign a DCA in lieu of arrest.

Please refer to the Memorandum of Agreement (MOU) with the District Attorney's Office for further clarification.

7. How is it proven that an individual has been advised on the court record of the Temporary Assistance disqualification penalties?

The Department is advised of each disqualification in writing from the District Attorney's Office. In addition, the original, signed DCA is forwarded to our office upon disposition of the criminal case. The individual is advised of the disqualification penalty as they consent on the court record to the disqualification, and it is read into the court record at the time of the plea and/or sentencing by the District Attorney.