

**AGREEMENT**

THIS AGREEMENT, made this 21<sup>st</sup> day of October, 2015, between

Darcie M. Miller, LCSW-R, Commissioner  
of the Orange County Department  
of Social Services, with offices at  
Box Z Quarry Rd, Goshen, New York, 10924,  
hereinafter called "COMMISSIONER"

Party of the First Part

-and-

David M. Hoovler, District  
Attorney of the County of Orange,  
with offices at 40 Matthews St,  
Goshen, New York, 10924,  
hereinafter called "DISTRICT ATTORNEY"

Party of the Second Part

WHEREAS, the COMMISSIONER recognizes that it is the statutory responsibility of the DISTRICT ATTORNEY to prosecute crimes committed in and against the County of Orange, and

WHEREAS, the Orange County Department of Social Services maintains a staff to investigate the TEMPORARY ASSISTANCE, DAY CARE, MEDICAID and SNAP Programs as a result of fraudulent activity, and

WHEREAS, the COMMISSIONER has been directed to refer all appropriate cases where there has been an over-issuance of TEMPORARY ASSISTANCE, DAY CARE, MEDICAID and/or SNAP benefits due to a client's fraudulent activity, and

WHEREAS, the parties are desirous of instituting certain procedures in the referral of TEMPORARY ASSISTANCE, DAY CARE, MEDICAID and/or SNAP frauds to the DISTRICT ATTORNEY whereby those cases deemed appropriate shall be dealt with by the DISTRICT ATTORNEY pursuant to the procedures set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is hereby agreed by and between the parties as follows:

**ONE:** As is the present practice, the COMMISSIONER shall refer cases of fraudulent activity resulting in an over-issuance of TEMPORARY ASSISTANCE, DAY CARE, MEDICAID and/or SNAP benefits to the DISTRICT ATTORNEY. In such referrals, the DISTRICT ATTORNEY and the COMMISSIONER, or their employees assigned to these matters, shall confer. The DISTRICT ATTORNEY shall determine whether to initiate prosecution. If, after conferring, the DISTRICT ATTORNEY agrees that prosecution is in the best interests of the People of the State of New York, then and in that event, the Orange County Department of Social Services shall forward all relevant documents pertaining to such TEMPORARY ASSISTANCE, DAY CARE, MEDICAID and/or SNAP fraud cases to the Orange County District Attorney's Office for their consideration.

In such cases, the Orange County Department of Social Services shall prepare an evidence packet to be given to the Orange County District Attorney's Office and a packet for the subject. The circumstances set forth for accepting cases for prosecution, the dollar threshold and types of violations by the District Attorney's Office are as follows:

The District Attorney will evaluate any claim or case referred by the County Department of Social Services. The District Attorney's Office sets no hard and fast standards for referral, as every case will be evaluated individually based upon its prosecutorial merits, deterrent effect on future frauds, and fairness to the alleged violator and the taxpayers of the County and State.

If after conferring, the District Attorney agrees that the administrative procedure is in the best interest of the People of the State of New York, then and in that event, the Orange County Department of Social Services shall attempt to seek restitution of the over issuance of the TEMPORAY ASSISTANCE, DAY CARE and/or SNAP benefits administratively, entering into such Disqualification Consent Agreement with the subject of the alleged TEMPORARY ASSISTANCE, DAY CARE and/or SNAP fraud as the COMMISSIONER deems appropriate.

In such cases, the Orange County Department of Social Services shall send advance written notice of the consequences of signing a Disqualification Consent Agreement to the subject of the alleged TEMPORARY ASSISTANCE, DAY CARE and/or SNAP fraud. The Disqualification Consent Agreement will afford the fraudulent party the opportunity to repay the Orange County Department of Social Services the amount of such TEMPORARY ASSISTANCE, DAY CARE and/or SNAP benefits obtained, with prosecution thereof by the Orange County District Attorney's Office to be deferred pending the performance of the said Agreement.

TWO: Copies of the particular forms and directives annexed hereto and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have affixed their respective signatures on the day and date first above written.

**DISTRICT ATTORNEY'S COOPERATIVE AGREEMENT**

This Cooperative Agreement made the    th day of September, 2015, between the **ORANGE COUNTY DEPARTMENT OF SOCIAL SERVICES**, (the **DEPARTMENT**) and the **ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE**, (the **DISTRICT ATTORNEY**) is entered into between the parties

**WITNESSETH:**

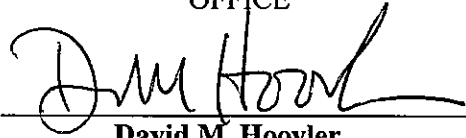
**WHEREAS**, 18 NYCRR359.4(b) and 399.4 (d) requires the **DEPARTMENT** to enter into a written agreement with district attorneys with regard to advance written notification of the consequences of signing a disqualification consent where Intentional Program Violations are alleged,

**NOW, THEREFORE**, it is agreed as follows:

1. The **DISTRICT ATTORNEY** agrees that in all cases referred to his office where; (1) an Intentional Program Violation is alleged, and (2) where the case is to be settled upon a basis of a deferred adjudication (e.g. adjournment in contemplation of dismissal), and (3) where a disqualification consent agreement is part of such settlement or order, the **DISTRICT ATTORNEY** will notify the **DEPARTMENT** prior to such settlement for the purpose of permitting the **DEPARTMENT** to send advance written notice to the defendant of the consequences of signing a disqualification consent agreement.


Date: 10/21/15

COUNTY DISTRICT ATTORNEY'S  
OFFICE

By:   
\_\_\_\_\_  
David M. Hoovler  
County of Orange  
District Attorney

Date: 10/21/15

COUNTY DEPARTMENT OF SOCIAL  
SERVICES

By:   
\_\_\_\_\_  
Darcie M. Miller, LCSW-R  
Commissioner  
Orange County Department of  
Social Services

## **Investigative Unit Operations Plan 2015**

**County: Orange**

**Contact Person: Janette Hendrick**

**Title: Head Social Welfare Examiner, Special Investigations Unit**

**Phone #: (845)291-4374**

**E-mail Address: Janette.Hendrick@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, how allegations are processed.

The Special Investigations Unit is responsible to investigate all allegations of client fraud.

There are 12 positions as follows:

1 Senior Clerk	1 Principal Clerk
9 Special Investigators*	1 Special Investigations Supervisor
*1 Investigator is working in the Temporary Assistance Division	1 Head Social Welfare Examiner

The allegations are processed as follows:

The Special Investigations Unit evaluates referrals received from Agency personnel, the general public and other governmental agencies. We investigate cases to prove or disprove the allegations of fraud and abuse to determine appropriate action (civil or criminal) on fraudulent cases. Assist the District Attorney's office in prosecution of cases, including testifying before Grand Jury. On civil cases, attempt to obtain an Affidavit of Confession of Judgments and Repayment Agreements. Pursue TA/SNAP through either a Disqualification Consent Agreement or Administrative Disqualification Hearing as per State and Federal mandates.

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.

The Special Investigations Unit is responsible to investigate all allegations of client fraud.

There are 12 positions as follows:

1 Senior Clerk	1 Principal Clerk
9 Special Investigators*	1 Special Investigations Supervisor
*1 Investigator is working in the Temporary Assistance Division	1 Head Social Welfare Examiner

The Investigator investigates and calculates a fraud overpayment. The Special Investigators and Supervisors confer with the Orange County District Attorney's office on possible criminal cases. The Assistant District Attorney determines whether to initiate prosecution of cases. If he/she accepts the case two evidentiary packets are submitted for his/her review.

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

The Special Investigators calculate all overpayments. The Special Investigator seeks to secure Affidavit of Confession of Judgments and Repayment Agreements on all civil cases. The Orange County Probation Dept. seeks restitution on all cases that have been prosecuted. The Orange County Dept. of Social Services Accounting Dept. is responsible for the collection of all civil monies.

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?

Once the Investigator investigates and calculates the fraud overpayment and it does not meet the criteria for criminal prosecution, two evidentiary packets are prepared and mailed to O.T.D.A.'s Administrative Disqualification Hearings Unit. The packet shall include a cover letter, the Transmittal of Request for Administrative Disqualification Hearing (ADH) form, Legal Services Contact information and address the ADH packet can be reviewed by the client, a Summary of the case, Exhibits to be used in the ADH and Witness List.

If the Investigator has referred the case for a Disqualification Consent Agreement (DCA) and the client does not sign it, they would have been given a 10 day office appointment letter to come in and review the DCA. In the event that the client does not keep a DCA appointment, the case is referred to O.T.D.A. as an ADH.

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?

The Investigator reviews the file to substantiate the fraud allegation and calculates the fraud overpayment. The Investigator gives the client an advanced 10-day appointment letter to meet with them. The 10-day letter lists the Legal Services contact information on it. The Investigator reviews the applications/recertifications and any other pertinent information that was used to determine the fraud overpayment. The Investigator verbally advises the client that the case may be referred for prosecution.

The Investigator and Supervisors then confer with the Assistant District Attorney (ADA) to discuss the merits of the case. If the ADA believes the case should be referred for prosecution, the Investigator prepares two evidentiary packets and gives both to the DA's office.

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

The Investigator investigates and calculates any fraud overpayments. The Investigator and Supervisors confer with the Assistance District Attorney (ADA) and if he/she agrees that the Administrative procedure is in the best interest of the People of the State of New York, then the Orange County Investigations Unit shall attempt to seek over-issuances entering into a Disqualification Consent Agreement (DCA) with the subject. In such cases, the Investigations Unit shall send advanced written notification of the consequences for signing a D.C.A. (10 days' notice) to the subject of the alleged fraud. The D.C.A. affords the fraudulent party the opportunity to repay the Agency with prosecution of the District Attorney's office to be deferred pending the performance of the agreement. The 10-day appointment letter and Consequences of signing a DCA form give the client the Legal Services contact information. Once the client signs the DCA, the Supervisors request that the Intentional Program Violation be imposed and the appropriate division mails a 10-day notice of Intentional Program Violation Notice.

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

The Special Investigations Unit provides to the District Attorney's office a "Statement for the Record" which is to be entered into the Court record upon prosecution. A copy of this statement is provided to the subject's Defense Attorney as well. A copy of this statement is attached.

**Attach a copy of the agreement between your county and the District Attorney's Office for the prosecution of welfare fraud.**