



The Inter-Office Coordinating Council

Procedures Regarding the Appointment of Directors of Community Services

These procedures relate to the following:

Section 41.05 of the New York State Mental Hygiene Law (MHL), which requires that, in order to be eligible for state aid, a county or the City of New York shall establish a local governmental unit (LGU), for the provision of local services, with a director of community services (DCS) as its chief executive officer. (Local governments use a variety of titles for this position such as Director or Commissioner of Mental Health.)

Section 41.09 of the MHL, which addresses the appointment of a DCS and requires that each DCS meet standards set by the Commissioner (as such term is defined in MHL Section 1.03) for the position.

Part 102 of Title 14 of the Codes, Rules and Regulations of the State of New York (14 NYCRR 102), which sets forth standards regarding the qualifications of a DCS and waivers of the requirement for a full-time DCS.

14 NYCRR 102.5, which provides that the Inter-Office Coordinating Council (IOCC), established pursuant to Section 5.05 of the MHL, set forth procedures regarding DCS appointments.

These following procedures, issued pursuant to 14 NYCRR 102.5(a), are intended as a guide for local governments regarding resignations and acting appointments of DCS, as well as reviews of candidates' qualifications for permanent appointment. They replace the procedures issued August 1994.

Resignations and Acting Appointments

Local governmental unit appointment requests may be for an acting appointment or for a permanent appointment. In the case of a resignation or acting appointment of a DCS, the local governmental unit shall notify the IOCC, in a timely manner, regarding these

events. Accurate identification of these changes is necessary in order to maintain continued communication between the state and the LGU during the period between resignation and permanent appointment of a new DCS. Notifications of resignations and acting appointments should be sent to the Chairperson of the IOCC, as noted on page 3.

An acting appointment is intended to provide appropriate management of the LGU while a recruitment process for a permanent DCS is underway. Acting DCS' do not need to meet the qualifications required under 14 NYCRR 102.6 for a permanent DCS. In situations where an individual with an acting appointment does not meet the DCS qualifications, the Acting Appointment shall not exceed six months without prior written approval of the IOCC. However, in all cases in which an acting appointment is made, and the individual designated is not a physician; an "examining physician" shall be designated in accordance with Section 41.09(b) of the MHL.

Process for Review of Permanent Appointments

1. Each local governmental unit should forward the following material to the Chairperson of the IOCC for review of the credentials of a candidate to be appointed as DCS:
 - Statement that the individual is a candidate for permanent appointment.
 - Resume indicating education and experience necessary to meet the standards set forth in 14 NYCRR 102.
 - Copy of New York State professional licensure or certification, if applicable.
 - If candidate has an administrative background, rather than a clinical background, the regulation requires that a clinical supervisor also be designated and the county should provide information showing that this has been addressed.
2. The Chairperson of the IOCC acknowledges receipt and forwards request for review of candidate's credentials, with attachments, to the IOCC members.
3. All IOCC members will have 30 days to review the candidate's credentials against the regulation's requirements.
4. All IOCC agencies, upon conclusion of their review, should submit confirmation of their recommendation to the IOCC Chairperson.

5. If IOCC agencies disagree, the IOCC Chairperson shall call a meeting of IOCC agencies to review recommendations and conclude the review process.
6. Whether the IOCC approves or disapproves a candidate's credentials, the IOCC Chairperson must notify the local governmental unit in writing of the decision.
7. Upon receipt of a letter of disapproval, the local government can, within 30 days of the date of the letter, appeal in writing to Chairperson of IOCC by submitting additional material to support the credentials of the disapproved candidate. If the local governmental unit does not appeal, the findings of the IOCC are final.
8. If local governmental unit appeals the disapproval by submitting additional material supporting the disapproved candidate's credentials, the Chairperson of the IOCC will implement the process for review of the appeal following the same procedure used for initial review.
9. The IOCC may approve or disapprove the candidate's credentials upon review of additional material, and the finding is final with no additional administrative appeal.

Waiver of Full-Time Status

Section 41.09 of the MHL requires that a DCS be a full-time employee except in a case of express waiver by the IOCC. The local governmental unit may request that the IOCC waive the requirement that the DCS be a full-time position. The process for such requests is addressed, in detail, in 14 NYCRR 102.8.

In reviewing requests for waivers, the IOCC will consider, among other factors required by the regulation, potential conflicts of interest. Consideration of potential conflicts of interest includes instances when a local governmental unit proposes that a DCS candidate serve in more than one local governmental capacity.

In cases where the holding of a dual position may create the potential for conflict of interest issues, before a waiver is approved the IOCC may require:

- a. the establishment of a local administrative structure which clearly separates the functions of the county's mental hygiene and other human/social services

departments whereby local county departments will not be in conflict; and/or

- b. that an administrative structure and/or policy be developed whereby the holder of a dual position would be required to recuse him or her from mental hygiene issues which potentially could be in conflict with other local administrative needs or requirements under his or her jurisdiction; and/or
- c. the imposition of any other conditions deemed necessary to address potential conflicts of interest.

Notifications of resignations and acting appointments, as well as requests for review of credentials should be directed to:

Ann Sullivan MD, Chairperson
Inter-Office Coordinating Council
44 Holland Avenue
Albany, NY 12229

For questions or assistance, please contact:

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Phone - (518) 474-4403

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