



Office of Children and Family Services

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Local Commissioners Memorandum

Transmittal: 17-OCFS-LCM-01

To: Local District Commissioners

Issuing

Division Office: Division of Child Care Services

Date: March 22, 2017

Subject: Child Care Providers Deduction of Union Dues in Social Services
Districts Other Than New York City

Contact Person(s): See page 3

Attachments: Attachment 1: Revised BICS Vendors Inquiry for Union Dues Exclusion and Membership
Attachment 2: Generate New SICS Union Dues Report for Union Members
Attachment 3: Generate Revised BICS Union Dues Report for Excluded Vendors and Update SICS Child Care Vendor ID Union Dues Exclusion Flag
Attachment 4: Generate Revised BICS Union Dues Report for Period
Attachment 5: WMS Codes that Include Union Dues
Attachment 6: WMS Codes that Exclude Union Dues

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to inform social services districts (SSD), other than New York City, of a change in the deduction of union dues and fair share fees from child care subsidy payments made to providers of family day care, group family day care, legally exempt in-home, and legally exempt family day care.

II. Background

On October 1, 2010, provisions permitting the unionization of certain child day care providers were added to the New York State Labor Law through the enactment of Chapter 540 of the Laws of 2010, which added a new Article 19-c (sections 695-a through 695-g).

The legislation allowed child day care providers to organize themselves and select representatives for the purpose of discussing with the state the conditions of their employment, the stability of funding and operation of child care programs, and the expansion of quality child care.

The legislation does not:

1. permit child care providers the right to engage collectively in a strike or to take work action to secure any right or privilege from the state or its agencies;
2. make providers state officers or employees or in any way imply an employee-employer relationship with the state or its subdivisions, including but not limited to the public retirement system, public health insurance program, unemployment insurance, workers' compensation, disability coverage, New York Civil Service Law or indemnification under the Public Officers Law;
3. alter any current regulations, policies or procedures for health, safety, discipline, inspection or enforcement applicable to child care providers or programs, unless agreed to and enacted;

4. interfere with the existing relationship between consumers and child care providers, including existing rights of parents or guardians to change or terminate a provider's service;
5. interfere with any ability of child care providers or child care provider representatives to meet or correspond with any state agency with regard to any matter of relevance; or
6. create any contractual right or obligation.

In accordance with the provisions of the law, eligible providers outside of New York City designated the Civil Service Employees Association (CSEA), Local 1000, AFSCME, AFL- CIO as their union; it remains the designated union. Under the authority of Article 19-c of the New York State Labor Law, the New York State Office of Children and Family Services (OCFS) processed deductions from provider checks for union dues and fair share fees.

On June 30, 2014, the United States Supreme Court held in *Harris v. Quinn*, 134 S. Ct. 2618 (2014) that the First Amendment prohibits unions from imposing mandatory agency fees on nonmembers. As a result, CSEA requested that New York State cease the deduction of fair share fees from child care subsidy payments made to nonmember providers of family day care, group family day care, legally exempt in-home, and legally exempt family day care.

III. Program Implications

Until now, OCFS and the SSDs have manually managed stopping the deduction of union dues / fair share fees from subsidy payments of those who are nonmembers. The Benefit Issuance and Control System (BICS) has been updated to allow for the designation of union members.

Effective December 5, 2016, SSDs may view BICS Child Care Vendors (services vendor commodity code 01) who are union members on the BICS Vendor Inquiry (LV0200) screen. LV0200 will also display whether the provider is excluded from the union dues deduction process. Refer to Attachment 1 for instructions on how to see if a provider is a union member or is excluded from the union dues deduction process.

Beginning on January 1, 2017, union dues deductions will occur only for child care providers who are union members. CSEA will provide BICS with a daily interface file identifying child care vendors who are union members and updating union membership data.

For union members who receive child care subsidy payments, BICS will deduct up to 2 percent from each child care subsidy payment made to eligible providers up to the annual maximum allowable union dues deduction amount (\$748.25-2017). Each provider check will include contact information for CSEA. In the event that a provider has questions about union dues deductions, the provider should contact CSEA directly.

SSDs should continue to remit the collected union dues, at least once per month, to CSEA by using BICS Production Request (BPR) 38. Instructions on how to generate a check for CSEA can be found in Chapter 6 of the BICS Services Payment Processing Subsystem Manual.

SSDs continue to have the ability to exclude providers from the union dues deduction process by using BICS Vendor Operations in the event that, by operation of judgment or lien, the subsidy payments must be directed to a judgment creditor or lienholder. SSDs should verify that existing provider exclusions on BICS are still valid. Refer to Attachment 3 for instructions on how to produce the Union Dues Report for Excluded Vendors and how to update the BICS Child Care Vendor ID Union Dues Exclusion Flag. In the event that a child care provider no longer wishes to be a member of CSEA, that provider should contact CSEA directly. Child care providers who are union members and do not receive child care subsidies or are excluded from the deduction process will be notified of union dues directly by CSEA with instructions on how to remit payment.

Attachments:

The 6 attachments include directions for SSDs to access the BICS Vendor Inquiry screen for union dues exclusion and membership information. In addition, instructions are provided on how to generate three BICS union dues reports through BPR 38, including the new Union Dues Report for Union Members, which identifies BICS vendors who are union members.

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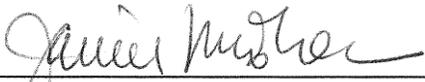
IV. Contact Persons

If you have programs questions regarding information contained in this LCM, contact Joe Ziegler of the OCFS Division of Child Care Services at (518) 402--6520 or by email at joe.ziegler@ocfs.ny.gov.

If you have any fiscal questions regarding information contained in this LCM, contact James Carroll of the OCFS Bureau of Financial Operations at (518) (518) 474-0131 or by email at james.carroll@ocfs.ny.gov.

If you have Welfare Management System (WMS) authorization questions regarding information contained in this LCM, contact Maureen Godwin at (212) 383-2483 or by email at maureen.godwin@ocfs.ny.gov.

All calls, inquiries, or communications about union dues that SSDs receive from child care providers residing in the SSD outside of New York City should be directed to CSEA at the following address: CSEA Membership Department, 143 Washington Ave., Albany, NY, 12210; or by phone at (877) 483-CSEA (2732); or by email at ccptny@cseainc.org.



Issued By:

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