



# NYS Kinship Navigator

## Exemptions for Requirement

### For Cooperation with Child Support Enforcement Program

Non-parents caring for children may apply for a “child-only” (non-parent) grant. The application for public assistance will contain questions asking for information about the parents of children. Local social services departments want this information so they can seek to limit their financial costs by seeking support from parent(s).

If an absent parent has been determined to be legally responsible for child support, it is reasonable, for the local social services provider to expect your help in seeking recourse through the Child Support Enforcement Program. Thus, in addition to demonstrating need, ordinarily state social services laws require that you cooperate with child support enforcement by providing your caseworker with certain information needed by state social services officials to find and pursue the absent parent to attempt to enforce child support orders<sup>1</sup>.

### Cooperation

*Usually* cooperation includes the following:<sup>2</sup>

- (a) completing the child support enforcement referral form and, at a minimum, providing verifiable information on the form sufficient to identify and locate the absent parent or putative father, including:
  - (1) the full name and social security number of the absent parent or putative father; or
  - (2) the full name of the absent parent or putative father and at least two of the following concerning such parent or father:
    - (i) date of birth;
    - (ii) residential and, if different, mailing address;
    - (iii) telephone number; and
    - (iv) name and address of employer; or
  - (3) the full name and any additional information equivalent to the information [above] that leads to establishment of the absent parent's or putative father's identity and location.

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<sup>1</sup> 18 NYCRR 369.2, Subdivision (a).

<sup>2</sup> 18 NYCRR 369.2, Subdivision (b)(c)(ii)(a).

- (b) appearing at the local child support enforcement unit, as necessary, to provide the child support enforcement referral form and such oral or written information or documentary evidence, known to be possessed by or reasonably obtainable by the applicant or recipient...
- (c) appearing as a witness at court or other hearings or proceedings
- (d) providing information or attesting to the lack of information under penalty of perjury;
- (e) submitting the child and herself or himself to genetic tests, pursuant to judicial order or administrative direction; and
- (f) after an assignment of support under this subdivision has been made, paying to the support collection unit any payments received from the absent parent which are covered by that assignment;

### **Waivers (Exemptions) from Cooperation Requirement**

HOWEVER, in certain circumstances NYS does permit non-parents to refuse to cooperate.<sup>3</sup> Particularly, in cases where the non-parent may have good reason to fear that cooperation with enforcement could result in danger to them or a child if the parents learn that you helped state officials pursue him.

### **Domestic Violence**

An applicant for or recipient of public assistance who, as a victim of domestic violence, has been granted a waiver of child support cooperation requirements, is not required to cooperate to the extent authorized by such waiver.

To qualify, you must state and corroborate the circumstances you believe constitute good cause for not cooperating. You may still, if requested, provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation in order to corroborate the facts you state.

### **Physical and/or Emotional Harm and Other Circumstances**

There are other circumstances in a waiver may be obtained because cooperation is not in the best interests of the child. These include<sup>4</sup>:

- (a) the applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:
  - (1) physical harm to the child for whom support is to be sought;
  - (2) emotional harm to the child for whom support is to be sought;
  - (3) physical harm to the parent or caretaker relative with whom the child is living which reduces such person's capacity to care for the child adequately;

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<sup>3</sup> If you do not have a "good cause" for refusing to cooperate, the penalty is a 25% reduction in the payment. You can still receive a grant, although it will be less than the full payment available.

<sup>4</sup> 18 NYCRR 369.2, Subdivision (b)(4) et seq.

(4) emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces such person's capacity to care for the child adequately; or

(b) the child for whom support is sought was conceived as a result of incest or forcible rape; or

(c) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

the applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and discussions have not gone on for more than three months.

## **Emotional Harm**

Recently, the Commissioner of NYS's Office of Temporary and Disability Assistance issued guidelines for claiming an exemption from the requirement for cooperation. The guidelines make it clear that non-parents **who fear that parents may attempt to remove children from their home** may claim the exemption. Proof may be in the form of affidavits from the non-parent and professionals. Affidavits are sworn, notarized statement. According to the Commissioner, affidavits showing reasons why there could be emotional harm may be sufficient to claim the exemption.

For more information about the exemption, contact the NYS Navigator kinship specialist at [navigator@nysnavigator.org](mailto:navigator@nysnavigator.org) or 877-454-6463.

Any person who is responsible for a child's education may participate in planning the

**Individualized Education Plan** for children who have disabilities.<sup>1</sup>

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<sup>1</sup> Amendments to The Individuals with Disabilities Education Act (IDEA), Pub. Law 105-17 (1997). See also IDEA, Pub. L.101-476.

**A Program of Catholic Family Center**

30 N. Clinton Ave ~ Rochester, NY 14604

(Phone) 877-4KinInfo (877-454-6463) ~ (Fax) 585-454-6286 ~ [www.nysnavigator.org](http://www.nysnavigator.org)

