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Informational Letter

Transmittal:	14-OCFS-INF-06
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Child Welfare and Community Services Strategic Planning and Policy Development
Date:	December 30, 2014 <i>Cancelled on 9/9/15; replaced by 15-OCFS-ADM-18</i>
Subject:	New York State Bill of Rights for Children and Youth in Foster Care
Suggested Distribution:	Directors of Social Services Voluntary Agency Program Directors Voluntary Agency Staff Staff Development Coordinators Foster Care Supervisors
Contact Person(s):	Questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: Buffalo Regional Office-Dana Whitcomb (716) 847-3145 Dana.Whitcomb@ocfs.ny.gov Rochester Regional Office-Karen Buck (585) 238-8201 Karen.Buck@ocfs.ny.gov Syracuse Regional Office-Sara Simon (315) 423-1200 Sara.Simon@ocfs.ny.gov Albany Regional Office-Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.ny.gov Spring Valley Regional Office-Yolanda Désarmé (845) 708-2498 Yolanda.Desarme@ocfs.ny.gov New York City Regional Office-Raymond Toomer (212) 383-1788 Raymond.Toomer@ocfs.ny.gov Native American Services-Heather LaForme (716) 847-3123 Heather.LaForme@ocfs.ny.gov
Attachments:	See below
Attachments Available Online:	Yes, OCFS -2132 and OCFS- 2132-S are available on the OCFS website at ocfs.ny.gov/main/documents/ .

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR §§428.9 and 430.12 18 NYCRR §441.21 (c)	Child and Family Services Improvement and Innovation Act of 2011 (P.L. 112-34) Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)		

I. Purpose

The purpose of the Informational Memorandum (INF) is to provide local departments of social services (LDSSs) and voluntary authorized agencies (VAs) with guidance on implementing the New York State Bill of Rights for Children and Youth in Foster Care (Bill of Rights).

II. Background

The federal Child and Family Services Improvement and Innovation Act (P.L. 112-34), enacted on September 30, 2011, amended section 1130 of the Social Security Act to allow the federal Department of Health and Human Services (HHS) to approve up to ten new child welfare demonstration projects in each of three years from Federal Fiscal Year (FFY) 2011-2012 through FFY 2013-2014, for a potential total of up to 30 state waivers. The waivers provide states with an opportunity to use federal funds more flexibly in order to test innovative approaches to child welfare service delivery and financing. In order to qualify for the waiver, states had to submit a proposal for a child welfare demonstration project that would increase permanency by reducing time in foster care, increase positive outcomes for children and families, and prevent maltreatment and re-entry into foster care. In order to be eligible for one of the waivers, states were required to implement at least two child welfare program improvement policies (from a list provided in P.L. 112-34) within three years of the application. At least one of the program improvement policies had to be a policy that the state had not implemented prior to the submission of the application.

On September 25, 2012, the Office of Children and Family Services (OCFS) submitted an application for a child welfare waiver demonstration project (also referred to as the Title IV-E waiver), which was approved by HHS on September 30, 2013. From the list of child welfare program improvement policies, OCFS chose to establish a Bill of Rights for Children and Youth in Foster Care. The Bill of Rights was chosen not only to comply with provisions of the Title IV-E waiver, but also to support OCFS's vision of improving the well-being of children and youth in foster care by promoting normative experiences. The Bill of Rights was the result of a collaborative effort between youth in foster care and OCFS staff.

In addition, section 113(d) of the federal Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), requires that all youth in foster care age 14 years and older be provided with a list of their rights with respect to education, health, safety, visitation, court participation and access to consumer credit reports. The federal law requires that by September 29, 2015, states must mandate that the Bill of Rights be provided to all youth in foster care age 14 and older, that they sign an acknowledgement that the foster child has received a copy of the Bill of Rights and that the rights contained in the Bill of Rights have been explained to the youth. At a later date, OCFS will issue guidance on P.L. 113-183 and the Bill of Rights, upon receipt of additional information from HHS on the new federal Act and as OCFS implements the new federal Act.

III. Program Implications

OCFS is providing LDSSs and VAs with the Bill of Rights and guidance on how to distribute and implement it with all children and youth who are currently in and who enter foster care. OCFS regulations 18 NYCRR §§ 428.9 and 430.12(c)(2) address participants in the initial service plan review (SPR) including, with specified exceptions, each child age 10 or over, the case planner and/or the child's caseworker, the birth or adoptive parent(s) and/or guardian(s), and the child's foster parent(s), if the child is in placement in a foster boarding home; the child's pre-adoptive parent, if the child is in such placement; or the relative or other suitable person with whom the child has been placed directly by court order. For children, under the age of 5 years, the Bill of Rights should be provided and reviewed during the initial SPR, so that all responsible parties are aware of the child's rights while in foster care.

OCFS regulation 18 NYCRR 441.21 (c)(2) specifies when and where casework contacts are to be held with a child/youth in foster care:

“During the first 30 days of placement, casework contacts are to be held with the child as often as is necessary to implement the services tasks in the family and children's services plan but must occur at least twice. At least one of the two contacts must be held at the child's placement location. The focus of the initial contacts with the child must include, but need not be limited to, determining the child's reaction to the separation and his/her adjustment to the out-of-home placement and arranging for services necessary to meet his/her needs.”

OCFS recommends that caseworkers provide and review the Bill of Rights with all children/youth ages 5 and older, and, if applicable, their foster parent(s), pre-adoptive parent(s) or relative caregiver(s), during a casework contact within the first 30 days of placement. The Bill of Rights should be reviewed again at the initial SPR in order to engage parent(s)/guardian(s) and empower them to share the responsibility for the safety, permanency and well-being of their child. For children/youth who are currently in foster care and have already had initial casework contacts and SPRs, the process discussed above should be followed at the next home visit and/or SPR following this policy release. Use of casework contact and SPRs to distribute and review the Bill of Rights would eliminate the need for additional meetings.

Step-by-Step Guidance on Distribution and Review of the Bill of Rights

Children under 5 years of age

1. At the initial SPR, or at the next SPR following this policy release for children currently in foster care, the assigned caseworker should distribute and review the Bill of Rights with all participants at the SPR.
2. After the document is reviewed, the signatures of the child, caseworker, supervisor, parent(s)/guardian(s) and, if applicable, foster parent(s), pre-adoptive parent(s) or relative caregiver(s) should be obtained. If the child is unable to sign the document, the individual who is acting on behalf of the child (parent/guardian and/or foster parent) may sign in place of the child.
3. The caseworker should provide all participants with a signed copy of the Bill of Rights and place a copy in the child's case record.
4. The caseworker should have ongoing conversations with the child regarding his/her rights while in foster care and be available to the child when the child expresses curiosity and/or concern about his/her rights.
5. The caseworker should periodically meet in private with the child to give the child the opportunity to discuss any concerns/problems with his/her rights.

Children age 5 and older

1. During a casework contact within the first 30 days of placement, or at the next casework contact following this policy release for children/youth currently in foster care, the assigned caseworker should provide the child/youth with a copy of the Bill of Rights.
2. During the casework contact, the caseworker should read the Bill of Rights to all children in foster care who are under the age of 12 or to any other child/youth in foster care who is unable to read it independently. If any of the participants require the Bill of Rights in a different language, the agency should utilize an interpreter to read and discuss the Bill of Rights with them. OCFS has translated the Bill of Rights into Spanish and it is attached to this INF.
3. During the casework contact, the caseworker should review the Bill of Rights and be prepared to answer any questions the child/youth and, if applicable, foster parent(s), pre-adoptive parent(s) or relative caregiver(s) may have and to assess their understanding of the document.
4. At the initial SPR, or at the next SPR for children/youth currently in foster care, the Bill of Rights should be distributed and reviewed again, in order to engage the parent(s)/guardian(s).
5. After the document is reviewed, the signatures of the child/youth, caseworker, supervisor, parent(s)/guardian(s) and, if applicable, foster parent(s), pre-adoptive parent(s) or relative caregiver(s) should be obtained. If the child/youth is unable to sign the document, the individual who is acting on behalf of the child/youth may sign in place of the child.
6. The caseworker should provide all participants with a signed copy of the Bill of Rights and place a copy in the child's case record.

7. The caseworker should have ongoing conversations with the child/youth regarding his/her rights while in foster care, and be available to the child/youth when the child/youth expresses curiosity and/or concern about his/her rights.
8. The caseworker should periodically meet in private with the child/youth to give the child/youth the opportunity to discuss any concerns/problems with his/her rights.

LDSSs and VAs are encouraged to follow the steps outlined above for the distribution and review of the Bill of Rights to all children and youth in foster care. The Bill of Rights (OCFS-2132 and OCFS-2132-S) can be found in the forms section of the OCFS website at ocfs.ny.gov/main/documents/.

/s/ Laura M. Velez

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