



# Office of Children and Family Services

Andrew M. Cuomo  
Governor

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Acting Commissioner

## Administrative Directive

<b>Transmittal:</b>	16-OCFS-ADM-18
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Strategic Planning and Policy Development
<b>Date:</b>	November 9, 2016
<b>Subject:</b>	<b>Placement, Visitation, and Contact for Siblings in Foster Care</b>
<b>Suggested Distribution:</b>	Directors of Social Services Child Welfare Supervisors Foster Care Supervisors Adoption Supervisors Staff Development Coordinators
<b>Contact Person(s):</b>	Please see section VI for contact information.
<b>Attachments:</b>	none

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regulations	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
92-ADM-24, 07-OCFS-INF-04, 15-OCFS-ADM-01		18 NYCRR 431.10	Chapter 242 of the Laws of 2016, FCA §§ 1027-a, 1055, 1081, 1089, SSL § 384-b		

### I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSSs) and voluntary agencies (VAs) of the provisions of Chapter 242 of the Laws of 2016 (the Chapter). The Chapter amends various provisions of the Family Court Act (FCA) and the Social Services Law (SSL) that pertain to contact and visitation between siblings (including half-siblings) when one or more of the siblings have been removed from their home.<sup>1</sup>

<sup>1</sup> Children “removed from their home” refers to children placed into foster care, or into a direct placement with a relative, non-respondent parent or other suitable person.

## II. Background

The Chapter, signed into law by Governor Andrew Cuomo on August 18, 2016, details how motions for sibling placement, contact, and visitation can be brought and determined, including who can file a motion, who must be served, how the term “siblings”<sup>2</sup> is defined, and the legal standard the Family Court must use in determining whether to grant a motion.

The New York State Office of Children and Family Services (OCFS) previously adopted regulations providing requirements for placement, communication, and visitation between siblings that are consistent with the Chapter.<sup>3</sup> The ADMs, *Foster Care, Adoption: Requirements for Siblings Placement, Visitation and Communication* (92-ADM-24), and *Definition of Siblings and Expansion of the Relative Notification Requirements* (15-OCFS-ADM-01), also address the relationships of siblings and the rights of children to contact and visitation with their siblings. The Informational Letter, *Keeping Siblings Connected: A White Paper on Siblings in Foster Care and Adoptive Placements in New York State* (07-OCFS-INF-04), provides LDSSs and VAs with a framework for practice to strengthen sibling bonds for children placed in foster care or adoptive placement.

## III. Program Implications

The Chapter codifies existing OCFS policy that provides that the term “siblings” includes half-siblings and those who but for the termination of parental rights or the death of a parent would be deemed siblings or half-siblings. The Chapter also amends section 384-b of the SSL to specify that the termination of parental rights does not eliminate a child’s right to contact with his or her siblings.

Consistent with 18 NYCRR §431.10(e), the Chapter amends section 1027-a of the FCA to require that if a child is placed separately from his or her minor siblings, the LDSS must arrange appropriate and regular contact with the siblings unless the contact would not be in the child or siblings’ best interests.

### **Petitions for Placement, Visitation, and Contact With Siblings:**

The Chapter provides a mechanism for children who are removed from their home and who are not placed with or afforded regular contact with their siblings to petition for an order regarding placement, contact, or visitation with their siblings.<sup>4</sup> The Chapter also grants siblings of a child who has been removed from his or her home pursuant to Article 10 of the FCA and remanded or placed in the care of a LDSS the right to petition for contact or visitation with the child.<sup>5</sup>

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<sup>2</sup> In L. 2016, c. 242, § 5, amending SSL § 384-b, “siblings” include half-siblings and those who would be deemed siblings or half-siblings but for the termination of parental rights (TPR) or a death of a parent.

<sup>3</sup> 18 NYCRR 431.10.

<sup>4</sup> L. 2016, c. 242, §§ 1 and 3 amending FCA §§ 1027 and 1081.

<sup>5</sup> L. 2016, c. 242, § 3, amending FCA § 1081.

The petition for placement, contact or visitation must allege that placement, visitation, or contact would be in the best interests of both the child who has been removed from his or her home, and the child's sibling. The petitions must be served upon:<sup>6</sup>

1. The respondent in the Article 10 proceeding
2. The LDSS official having care of the child
3. Other persons having care, custody, and control of the child, if any
4. The parents or other persons having care, custody, and control of the siblings to be visited or with whom contact is sought
5. Any non-respondent parent in the Article 10 proceeding
6. The sibling, if the sibling is 10 years of age or older
7. The sibling's attorney, if any

Upon receipt of a petition or motion filed for visitation or contact, the court determines after giving notice and an opportunity to be heard to the persons served, whether placement, visitation, and contact would be in the best interests of the child and his or her sibling. The court may order that the child have regular contact or visitation with his or her siblings if the court determines it to be in the best interests of the child and his or her siblings.<sup>7</sup> The court's determination may be included in the dispositional placement order pursuant to FCA §1055, following a motion or petition for visitation pursuant to FCA §1081 or in a permanency hearing order pursuant to FCA §1089.

Additionally, petitions for sibling visitation may still be brought under Domestic Relations Law § 71 and FCA § 651, if applicable.

#### **IV. Required Action**

If siblings are in foster care and placed in separate placements, LDSSs and VAs must continue to arrange appropriate and regular contact for the siblings unless the contact would not be in the child or siblings' best interests.

In the event that the court orders visitation, contact, or placement of a child with his or her siblings, the LDSSs must comply with the terms of the court order.

#### **V. Effective Date**

This policy directive is effective immediately.

#### **VI. Contact Information**

Any questions concerning this release should be directed to the appropriate regional office, Division of Child Welfare and Community Services:

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<sup>6</sup> L. 2016, c. 242 §§ 1 and 3, amending FCA §§ 1027-a and 1081.

<sup>7</sup> L. 2016, c. 242 §§ 1, 2 and 3 amending FCA §§ 1027-a, 1055 and 1081.

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*/s/ Thomas R. Brooks*

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