



Office of Children and Family Services

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Transmittal:	21-OCFS-ADM-27
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Youth Development and Partnerships for Success Child Welfare and Community Services
Date:	November 09, 2021
Subject:	Referral Process for Placement in an EMPOWER Program
Suggested Distribution:	Directors of Social Services Child Welfare Supervisors Foster Care Supervisors Staff Development Coordinators CONNECTIONS Implementation Coordinators Qualified Individuals (QIs)
Contact Person(s):	See section VI.
Attachments:	<ul style="list-style-type: none"> OCFS-5575, <i>Appropriateness of Placement Assessment in a Prenatal, Postpartum or Parenting/EMPOWER Setting</i> <i>Common Referral and Intake Packet for EMPOWER Programs (CRP)</i>

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
21-OCFS-ADM-04; 21-OCFS-ADM-19		18 NYCRR 427.2, Parts 440, 441, 442, 447, 448, 476, and 447	Family First Prevention Services Act (FFPSA) (P.L. 115-123); 42 USC §672(k); and SSL §460-a		

I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSSs) and authorized voluntary agencies (VAs) of new requirements pertaining to programs designed to meet the needs of children and youth in foster care who are found to be, or are at risk of becoming, victims or survivors of sex trafficking. These new requirements are based on the federal Family First Prevention Services Act (FFPSA), which was enacted on February 9, 2018, and became effective in New York State (NYS) on September 29, 2021.

II. Background

EMPOWER programs are certified by the NYS Office of Children and Family Services (OCFS) to provide high quality residential foster care and support services to children 10 years of age or older and identified as having been trafficked or at high risk of trafficking through form OCFS-3920, *Child Sex Trafficking Indicators*. This ADM instructs LDSSs of the process to be followed in assessing whether placement in an EMPOWER program is most appropriate for a youth, and how to make a referral to an EMPOWER program when such determination has been made.

LDSSs should be aware that EMPOWER programs may, but are not required to, accept emergency placements; each program indicates whether they accept emergency placements in their policies and procedures.

Youth must be placed in the lowest level of foster care available to meet their needs. Not every youth with trafficking experience or risk requires placement in an EMPOWER program. EMPOWER programs may not be used for ease of placement when finding other placement resources is challenging.

For a placement to successfully help youth heal and return to their family, step down to lower levels of care, or achieve independence, youth need to have an opportunity to give voice to their strengths, needs, and goals, and in what settings and with which services those can best be met. Processes to engage youth in a thoughtful manner are built into the required referral process for both LDSSs and EMPOWER programs. LDSSs should be aware of these youth engagement processes, and the timeframes associated with them, so that appropriate arrangements can be made for youth throughout the referral process. It is expected that this up-front investment in youth engagement will yield better outcomes for young people.

III. Program Implications

Appropriateness of Placement (AOP) Process

Form OCFS-5575, *Appropriateness of Placement Assessment in a Prenatal, Postpartum or Parenting/EMPOWER Setting* (referred to hereafter as the AOP form) is a tool used to facilitate the process in which a team approves or denies a caseworker's recommendation to refer a youth to placement in an EMPOWER program. The team must be multidisciplinary in nature and must include at least two adults outside of the LDSS who have been identified by the youth or their family as having a positive relationship with the youth. Examples may include the youth's family, kin,¹ counselor or social worker, mental health care provider, former foster care placement staff, etc. Teams must additionally include at least one supervisor or manager within LDSS who is familiar with foster care placement options. These reviews may be done concurrently with the Kin-First Firewall reviews;² however, all reviews must be completed prior to referrals being made to EMPOWER programs. Within these parameters, the LDSS may decide the team's composition and how these reviews are facilitated. The procedure must be documented in LDSS policy or procedure.

The AOP form must be completed by the referring LDSS and reviewed with the team each time a caseworker recommends a youth be referred to placement in an EMPOWER program. The form helps the caseworker to facilitate a discussion with the team by articulating the work done to

¹ Kin is defined in 18 NYCRR 443.1.

² 20-OCFS-ADM-18.

identify lower level-of-care placement options, why those options are not adequate to meet the youth's service needs, and why an EMPOWER program is best able to meet the youth's service needs.

The purpose of the team review is to ensure that all other viable placement options, including kin, were critically considered, that the youth had meaningful opportunities to voice their wishes and concerns about placement, and whether the EMPOWER program(s) to which the youth will be referred is capable of meeting the youth's identified service needs and personal goals.

To make a referral to an EMPOWER program, the team must review the completed AOP form and determine, based on their review, that all possible and appropriate efforts to place the youth in a family setting have occurred and that no family-setting placement can meet the youth's needs. If, following the review, the team disagrees with the caseworker's recommendation to place the youth in an EMPOWER program, such referral cannot be made, and the referring agency must identify other placement options for the youth.

For youth being stepped down from OCFS custody to foster care, the AOP process should be completed while the youth is still in a facility to minimize unnecessary moves and disruption. OCFS and the LDSS assuming custody of the youth should make every effort to collaborate on this process to ensure a smooth transition of the youth's care.

Qualified Individuals (QI)

State statute requires a QI completing an assessment to determine whether a youth qualifies for placement in a Qualified Residential Treatment Program (QRTP) to also consider whether the youth's needs may also be met in one of the three identified QRTP exception programs.³ If a QI recommends that a youth be placed in an EMPOWER program and

- the LDSS agrees with the QI's recommendation, the LDSS must complete the AOP process as described above.
- the LDSS disagrees with the QI's recommendation, another suitable placement may be arranged.
- a judge agrees and orders the youth be placed in an EMPOWER program, the LDSS must make all reasonable efforts to comply with the court order; in this circumstance the LDSS does not need to complete the AOP process.

Making a Referral to an EMPOWER Program

In each instance where a determination has been made to refer a youth to an EMPOWER program, the LDSS must complete and submit as part of the youth's referral the *Common Referral and Intake Packet (CRP) for EMPOWER Programs*, attached to this policy. The CRP provides detailed information about the youth to EMPOWER programs, which enables the programs to appropriately determine whether the youth can be admitted in accordance with the program's policies and procedures.

For youth being stepped down from OCFS custody to foster care, the CRP should be completed while the youth is still in a facility to minimize unnecessary moves and disruption. OCFS and the LDSS assuming custody of youth should make every effort to collaborate on this process to ensure a smooth transition of the youth's care.

³ PPP program, EMPOWER programs, Supervised Setting Programs.

Referrals supported by the recommendation of a QI can be made during the 60-day court review period; however, if the judge orders that the youth be placed in another setting, the referral must be retracted.

Youth Agreement to Participate in an EMPOWER Program

It is important for LDSSs to be aware that before an EMPOWER program can make a determination on a referral, each youth must have been offered meaningful opportunities to learn about the program and determine whether the services they offer align with their needs and goals. These opportunities are provided both by the LDSS and the EMPOWER program itself. LDSSs engage youth in this process through the AOP process. EMPOWER programs create opportunities for youth in alignment with program standards and in accordance with their policies and procedures.⁴ EMPOWER Programs are allowed no more than 14 calendar days to respond to a referral and must make arrangements to engage the youth during that time.

If, after the youth has been afforded opportunities to learn about the program, the youth articulates that they are unwilling to participate in the program, the program cannot admit the youth at that time. However, if the youth later changes their mind and becomes willing to participate in the program, the program and the LDSS should make all reasonable efforts to consider placing the youth in the program.

If the youth and the program are in agreement that the program is able to support the youth in meeting their needs and achieving their goals, the referral may be accepted.

IV. Required Action

Placement by LDSS Referral

In each instance when an LDSS seeks to make a referral to an EMPOWER program, the LDSS must first complete the AOP form (OCFS-5575) and review it with a team as described in this ADM. Youth must be engaged to voice their opinions, ask questions, and express their concerns about referrals to EMPOWER program(s) as part of the AOP assessment process.

If the team supports a referral to an EMPOWER program, the referral may be made and must include, at minimum, a

- completed AOP form and
- CPR, completed with as much detail as possible.

If the team denies the referral to an EMPOWER program, the LDSS cannot refer the youth to an EMPOWER program, and other placement options for the youth must be identified.

Direct Placement by a Court

In instances where a family court judge orders a youth be placed in an EMPOWER program, the AOP process is not required. LDSSs must still complete the CRP to the best of their ability and send it to the program. When youth are placed in an EMPOWER program by court order their agreement to participate in the program is not required, however LDSSs are strongly encouraged to engage youth in the placement process to the best of their ability.

⁴ The requirements for EMPOWER programs can be found in 21-OCFS-ADM-19.

Emergency Placements

If an LDSS seeks to make an emergency placement in an EMPOWER program, the LDSS must first make sure that the youth is eligible for placement in an EMPOWER program. The youth must be at least 10 years old and identified as having been trafficked or at high risk of trafficking through form OCFS-3920, *Child Sex Trafficking Indicators*. Additional eligibility information is found in 18 NYCRR 440.

Once an emergency placement is made, the LDSS has 30 days to provide to the EMPOWER program a complete referral packet, including the AOP form and CRP. The program has 14 days from receipt of this information to determine, with the youth, whether the placement is a good fit based on standard intake criteria and procedures. If the program and youth agree, the program can help the youth meet their needs and achieve their goals, and the placement may continue. However, if the program or youth determine that the program is not a suitable arrangement, the LDSS must find another appropriate placement for the youth.

V. System Implications

The EMPOWER program is labeled “Sex Trafficking” in CONNECTIONS in the Placement Module. Both LDSSs and VAs can select the Sex Trafficking program type when conducting a multi-facility search; this search may be bypassed to allow a youth to be placed directly into a facility that has the Sex Trafficking designation. LDSS caseworkers with the correct business function may bypass the Placement Module to place a youth directly into a Sex Trafficking facility when appropriate.

VI. Contacts

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VII. Effective Date

This ADM is effective immediately.

/s/ Nina Aledort _____

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