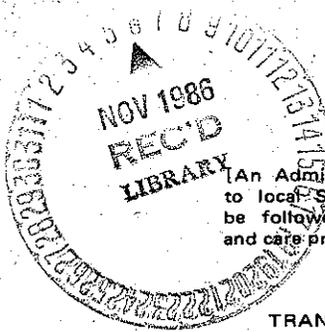


NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243
 CESAR A. PERALES
 Commissioner



[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 86 ADM-39
 (Family & Children's Services)

TO: Commissioners of Social Services
 Executive Directors

SUBJECT: Foster Boarding Home Capacity

DATE: November 3, 1986

SUGGESTED DISTRIBUTION:
 Social Services Districts
 Child Placement Agencies
 Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be directed to Frederic H. Cantlo, Regional Director, Metropolitan Regional Office, telephone 212-488-3485; John O'Connor, Regional Director, Eastern Regional Office, telephone 518-473-1095; Karen Schimke, Regional Director, Buffalo Regional Office, telephone 716-847-3145; Frank Petrus, Regional Director, Rochester Regional Office, telephone 716-238-8200.

I. PURPOSE

The purpose of this directive is to facilitate understanding and compliance with the provisions in paragraph 4 of Section 378 of the Social Services Law relating to the capacity of certified foster boarding homes.

Section 378 of the Social Services Law which is entitled "Form, duration and limitation of certificates and licenses", states in subdivision 4:

No such certificate shall permit the reception for board of more than six children and/or minors and if there are children under thirteen years of age not received for board living in the home of the person to whom such certificate is issued, whether children of such person or otherwise, the total number of such children and of the number of children and/or minors permitted to be received for board by such certificate shall not

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
82 ADM-62 85 ADM-52		421.24(b) (2)(ii) 431.11	376 378.4 398.6(n)		

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exceed six, excepting, however, that such certificate may permit the reception for board of more than six brothers and/or sisters of the same family.

II. Background

The general purpose of Section 378.4 of the Social Services Law is to prevent overcrowding of foster family boarding homes and to maintain conditions in the home that are suitable for the care of children.

In general, the intent of the law has been understood but there has been recurring difficulty by some agencies in understanding what is the maximum foster family home capacity given the various conditions under which an exception may be made to the law's general limitation of six children. Misunderstanding has resulted in underutilization of some foster homes as well as to violations through overcrowding in other homes.

This statute, along with section 398.6(n) of the Social Services Law, defines the only conditions which would permit an expanded capacity of a foster family home.

III. Program Implications

- A. An understanding of subdivision 4 of Section 378 of the Social Services Law is essential for all administrative, supervisory, and casework staff involved directly or indirectly in planning foster home placements of children and/or in making evaluations of foster family homes.
- B. To assure effective planning of placements and/or evaluations of foster family homes administrative, supervisory, and casework staff should know the following:
 - I. Subdivision 4 of Section 378 refers to certificates issued by a local social services district or a voluntary child caring agency. This subdivision provides:
 - (a) No certificate shall permit the boarding of more than 6 foster children.
 - (b) If there are children in the home under 13 years of age who are not foster children, the total number of children (both non-foster children under 13 years of age and all foster children) shall not exceed 6.

NOTE: Provision for an exception to the above limitations on foster homes' capacity is set forth in paragraph (n) of subdivision 6 of Section 398 of the Social Services Law. Exceptions granted pursuant to Section 398.6(n) have to comply with the Department's regulatory requirements of Section 431.11 Return to Foster Family Care After Interruption in Care (refer to 82 ADM-62 and 85 ADM-52).

2. Caring for more than six brothers and sisters in one foster home may:
 - (a) Necessitate living and sleeping conditions that do not comply with the foster home certification requirements of 18 NYCRR Section 444.5.
 - (b) Have a significant impact upon the foster family's stability if it is unable to deal with the stress that a large sibling group has upon the equilibrium of the family's functioning (activities, relationships, decision making, problem solving) and to cope with the responsibility of trying to identify and individualize the needs of each child in the sibling group.

IV. Required Actions

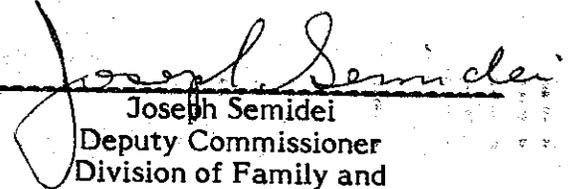
- A. Before placing a group of more than six brothers and sisters from the same family in one foster home an agency shall determine whether it will be possible for the foster home to continue to be in compliance with all certification requirements of 18 NYCRR Section 444.5 and shall assess the foster family's capacity to adjust to the stresses that the family can be expected to experience by the addition of a large sibling group.
- B. Public and private agencies shall review their rosters of foster family homes for the purpose of identifying certified homes that are currently not in compliance with subdivision 4 of section 378.
- C. Foster homes which are identified pursuant to the review shall be advised of the statutory restrictions on foster boarding home capacity. Authorized agencies have the statutory obligation to comply with the law as currently constructed in a manner consistent with the best interests of children.
- D. Following the effective date of this directive all newly certified foster family homes shall be in compliance with subdivision 4 of section 378 of the SSL unless an exception is granted in accordance with Section 398.6(n) of the Social Services Law.

V. Recommended Action

- A. Request technical assistance from the Department's regional office staff when foster parents, with a home already at the maximum capacity, plan to receive another child from an authorized agency for the purpose of adoption. The purpose of the technical assistance is to assist the agency in understanding Department policy and in determining how it can protect the best interests of each child in the home while complying with Section 378.4 of the Social Services Law as well as 18 NYCRR 421.24(b)(2)(ii).

VI. Effective Date

The effective date of this directive is December 1, 1986.



Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

Table I

A Guide for Determining that the Maximum Bed Capacity
For Certified Foster Family Homes is in Accord with the SSL

NUMBER OF CHILDREN

Permitted Capacity

Not Permitted

INSTRUCTIONS: Read Down

If the number of foster children in the home is

1-6 5 4 3 2 1 1-6 2 6+ (a) 6+ (b) 1 2 6+ (c)

And the number of non-foster children in the home under 13 years of age is

0 1 2 3 4 5 0 4 0 0 0 6 6 0

And the number of non-foster children in the home 13 years of age or over age 13 is

0 0 0 0 0 0 1 or more 2 0 2 0 0 0

Total number of Children in Home:

1-6 6 6 6 6 6 7 or more 8 6+ 8+ 7 8 6+

- (a) 6+ means more than six siblings of the same family
- (b) 6+ means six siblings and a child returned to a certified foster boarding home pursuant to 398.6(n)
- (c) 6+ means more than six foster children who are not siblings.



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