# Administrative Directive

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| To: | Commissioners of Social Services  
Executive Directors of Voluntary Authorized Agencies |
| Issuing Division/Office: | Office of Strategic Planning and Policy Development  
Division of Child Welfare and Community Services |
| Date: | September 9, 2015 |
| 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 |
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| Attachments: | • **Desk Aid**: Step-by-Step Guidance on Distribution and Review of the Bill of Rights for Youth Age 14 and Older  
• **OCFS-2132**: The New York State Bill of Rights for Children and Youth in Foster Care  
• **OCFS-2132-S**: The New York State Bill of Rights for Children and Youth in Foster Care *(Spanish version)*  
You can also access the Bill of Rights through the Forms pages on the OCFS websites, at:  
[http://ocfs.state.nyenet/admin/forms/Foster_Care/](http://ocfs.state.nyenet/admin/forms/Foster_Care/) *(intranet)* |
I. Purpose

The purpose of this Administrative Directive (ADM) is to notify local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of important changes in federal law and corresponding amendments to state regulations that impact the New York State Bill of Rights for Children and Youth in Foster Care (Bill of Rights) form and the required distribution of the form to youth in foster care who are 14 years of age and older due to enactment of the federal Preventing Sex Trafficking and Strengthening Families Act [the Act] (P.L. 113-183). The state regulatory changes are effective on September 1, 2015. Other policy releases will address additional requirements of the Act.

II. Background

The Bill of Rights was initially released on December 30, 2014 by the New York State Office of Children and Family Services (OCFS) in Informational Letter 14-OCFS-INF-06 and was the result of collaboration between youth in foster care and OCFS staff. In distributing the Bill of Rights to LDSSs and VAs, the informational letter provided guidance on implementation of the Bill of Rights for all children and youth in foster care. In addition, LDSSs and VAs were advised that the Act would have an impact on the Bill of Rights and that additional guidance would be provided.

On September 29, 2014, President Obama signed the Act into law, which amended various provisions of Title IV-E of the Social Security Act (SSA). The Act amended section 475A of the SSA to require that the case plan for any child or youth in foster care who has attained 14 years of age must include a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to a copy of any consumer reports provided in accordance with federal law, and the right to stay safe and avoid exploitation. In addition, the Act requires that the youth must sign an acknowledgement that he or she has received a copy of the Bill of Rights and that the rights contained therein have been explained to the youth in an age-appropriate way. The acknowledgement must be maintained in the youth’s family assessment and services plan (FASP). In order for New York State to maintain Title IV-E compliance, this provision must be in effect by September 29, 2015. A corresponding amendment to 18 NYCRR 428.6 has been made to implement the Act’s Bill of Rights requirements. This amendment was filed for Public Comment on February 25, 2015 and published in the State Register on March 18, 2015. Notice of adoption of the regulation was published in the State Register on June 17, 2015 and the regulation took effect on September 1, 2015.

Several provisions of the Act specifically pertaining to youth in foster care age 14 and over are included in the revised Bill of Rights released in this ADM. They include the right to participate in the development of the youth’s service plan and transition planning for

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**Filing References**

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successful adulthood, the ability to choose two members of the youth’s case planning team who are not the youth’s foster parent, case manager, case planner or case worker and the right to a copy without cost of the youth’s consumer reports (credit check report).

III. Program Implications

The Act, as a whole, has had a significant impact on existing child welfare policy and Title IV-E requirements. This ADM only addresses the changes made to the existing Bill of Rights, the reason for those changes, and the required procedure for the distribution of the Bill of Rights to youth age 14 and older.

Prior policy guidance provided to LDSSs and VAs via 14-OCFS-INF-06 suggested that LDSSs and VAs provide the Bill of Rights to, and review it with, all children and youth age 5 and older who are in foster care at the next casework contact, as well as those entering foster care during a casework contact within the first 30 days of placement. That policy guidance also suggested providing the Bill of Rights to, and reviewing it with, all participants during the initial Service Plan Review (SPR) for children under the age of 5. The rights discussed in this ADM reflect the rights that all children and youth in foster care are entitled to, unless specifically limited by age. OCFS recommends that LDSSs and VAs continue to promote the well-being of all children and youth in foster care by continuing this practice for all children ages 5-13 with the revised Bill of Rights attached to this ADM. However, an amendment to 18 NYCRR 428.6, effective September 1, 2015, requires that all youth in foster care 14 years of age and older are provided with the Bill of Rights including the new provisions, and that the youth sign an acknowledgement that he or she has received the document.

IV. Required Action

If an LDSS or VA has already chosen to follow the procedures outlined in 14-OCFS-INF-06 for all children and youth in its care, it must provide those youth 14 years of age and older with the revised version of the Bill of Rights attached to this ADM and follow the implementation plan outlined in the attached desk aid. The rights must be explained to the youth. The LDSS or VA must encourage the youth to sign the revised copy of the Bill of Rights, place a copy of the document in the youth’s case record, update the youth’s progress notes in CONNECTIONS to reflect the event, and include the event in the next FASP.

If an LDSS or VA chose not to provide children and youth with the Bill of Rights after the issuance of 14-OCFS-INF-06, caseworkers must provide all youth on their caseloads who are 14 years of age and older with the revised Bill of Rights and follow the implementation plan outlined in the attached desk aid. The rights must be explained to the youth. The youth must be encouraged to sign the Bill of Rights, a copy of the Bill of Rights with the youth’s signature must be placed in the case file and the event documented in the youth’s progress notes in CONNECTIONS and in the next FASP.

If an LDSS or VA chooses to provide children and youth younger than 14 years of age with the Bill of Rights, they may do so. However, when such youth turns 14 years of age, caseworkers must provide the youth with the revised Bill of Rights and follow the implementation plan outlined in the attached desk aid. The rights must be explained to the youth. At age 14, the youth must be encouraged to sign the Bill of Rights, place a
copy of the signed document in the youth’s case record, and document the event in the youth’s progress notes in CONNECTIONS and in the next FASP.

It is highly recommended, but not required, that the Bill of Rights be reviewed annually at the SPR with youth 14 years of age or older. It is important to recognize that the youth’s developmental ability, interests, and understanding of the document and his or her rights change as the youth ages.

OCFS has revised the Bill of Rights issued by 14-OCFS-INF-06 to reflect the changes made to federal law as a result of the Act. All existing copies of OCFS-2132 and OCFS-2132S dated 1/2015 must be discarded and replaced with the revised version of the Bill of Rights attached to this ADM. The updated versions can also be found on the OCFS website on the Forms page (http://ocfs.ny.gov/main/documents/ - type in “2132” in the key word search).

The attached desk aid has been provided to offer step-by-step directions on the provision of the Bill of Rights for youth age 14 and older. LDSSs and VAs should share the attached desk aid with casework staff, as the information contained within can assist them in providing the Bill of Rights to youth.

V. System Implications

CONNECTIONS

FASP:

Changes to the FASP are being made to incorporate documentation of the Bill of Rights for all youth age 14 and older. These changes are anticipated to be released as part of the CONNECTIONS modernization build and LDSSs and VAs will be notified when they are completed. The process outlined below will not be effective until the changes to the FASP are released. In the interim, caseworkers must document the event in the youth’s progress notes in CONNECTIONS.

When an initial, comprehensive or reassessment FASP is launched and a youth age 14 or older in the stage has a program choice of placement, a node labeled “Bill of Rights” will appear in the FASP tree in the Foster Care Issues section.

After choosing the node labeled “Bill of Rights,” the worker completing the FASP will be prompted to complete fields regarding the Bill of Rights for each youth age 14 and older.

All youth age 14 and older will be listed at the top of the screen. Multiple youth can be selected and updated at the same time.

If information already exists for the youth, the window will be prefilled. The worker has the ability to update the window at any time. For example, if a youth refused to sign the Bill of Rights during the previous FASP, but chooses to now, the worker can update the window to reflect it.

The first field that must be completed states “youth has received a copy of the Bill of Rights”. The worker must select: yes or no.
• If the choice selected is no, no other fields will be displayed.

• If the choice selected is yes, three additional fields will be displayed.

1. **Date Received:** The worker must enter the date youth received the Bill of Rights in the date box. The date can be backdated to the youth’s 14th birthday, but cannot be a future date.

2. **Bill of Rights has been appropriately explained to youth.** The worker must select yes or no.

3. **Signature Status:** The worker must choose one of three options from the drop down box: Youth signed the statement, Youth refused to sign, or Youth unable to sign.

Upon FASP submission, if worker has selected no to “Youth has received a copy of the Bill of Rights” for any child listed who is 14 years of age or older, the FASP cannot be submitted.

V. **Effective Date**

This directive is effective on the date of issuance.

/s/ Thomas R. Brooks

Issued By:
Thomas R. Brooks
Title: Deputy Commissioner
Division/Office: Strategic Planning and Policy Development

/s/ Laura M. Velez

Issued By:
Laura M. Velez
Title: Deputy Commissioner
Division/Office: Division of Child Welfare and Community Services
DESIGN AID
Step-by-Step Guidance on Distribution and Review of the Bill of Rights for Youth Age 14 and Older

1. The assigned caseworker must provide youth age 14 or older, who are in foster care, with a copy of the Bill of Rights:
   • At a casework contact within the first 30 days of placement when entering foster care; or
   • At the next casework contact if youth is already in foster care; or
   • At the casework contact immediately after the youth turns 14.

2. During the casework contact, the caseworker must read the Bill of Rights to any 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 must 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 ADM.

3. During the casework contact, the caseworker must review the Bill of Rights with the youth in an age and developmentally appropriate way and be prepared to answer any questions the youth may have. Caseworkers should also answer any questions that the foster parent(s), pre-adoptive parent(s) or relative caregiver(s), if applicable, may have so that they also have a clear understanding of the youth’s rights.

4. After the document is reviewed, or within 90 days of the review of the document, the youth must write his or her name attesting that he or she received a copy of the Bill of Rights and that he or she discussed it with his or her caseworker, parent(s) or guardian(s), and foster parent(s), if applicable. The youth, caseworker, and supervisor must print and sign his or her name and date the Bill of Rights. If the youth is unable or unwilling to sign the document, a note must be entered on the youth’s signature line stating that the youth did not sign and why.

5. At the initial Service Plan Review (SPR), or at the next SPR for youth in foster care, the Bill of Rights must be distributed and reviewed again, in order to engage the parent(s)/guardian(s), attorney for the child, and, if applicable, foster parent(s), pre-adoptive parent(s) or relative caregiver(s). If they have not already been encouraged to sign the document, the parent(s)/guardian(s) and foster parent(s) must be encouraged to do so. The caseworker must provide all participants with a signed copy of the Bill of Rights, place a copy in the youth’s case file, and record the event in a progress note in CONNECTIONS. The event must also be recorded in the next family assessment and services plan (FASP). In the event that a required participant in the case planning team is unable to attend the SPR, the caseworker must mail the participant a copy of the signed Bill of Rights.

6. If the youth initially refuses to sign the Bill of Rights, but decides to do so at a later date, the signed Bill of Rights must be placed with the original unsigned Bill of Rights in the youth’s case file. The next FASP must be updated to reflect the signing of the Bill of Rights.

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

8. It is highly recommended that the Bill of Rights be discussed with all participants annually at the SPR.
As a child or youth in foster care in the State of New York, I have the right:

1. To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services.

2. To be treated fairly and with respect and to receive care and services that are free of discrimination based on race, creed, color, national origin, age, religion, sex, gender identity or gender expression, sexual orientation, marital status, physical or mental disability, or the fact that I am in foster care.

3. To visit with my birth or adoptive parents, unless the court or agency has determined that it is not in my best interest or my parents’ rights have been ended or given up. If I have had children of my own while in care, I have the right to live with my child(ren) and to make decisions for my child(ren), unless the court determines that I cannot.

4. To live with my brothers and sisters unless the court or my agency has determined it is not in my best interests or those of my brothers or sisters, and to visit with my brothers and sisters regularly if we do not live together, unless the court or a case worker has determined it is not in my best interests or those of one of my brothers or sisters, or their distance from me prevents visitation.

5. To know the name and the contact information for my caseworker, my caseworker’s supervisor, and my lawyer (Attorney for the Child). I have the right to have at least a monthly visit with my caseworker, and to contact my caseworker or my lawyer (Attorney for the Child) as I need to in private if I request it and to have my caseworker and/or my lawyer (Attorney for the Child) respond to my attempts to contact them. I have the right to have my records and personal information kept private and only given to people or agencies who have a legal right to see them.

6. To be free from cruel, harsh or unnecessary punishment, including but not limited to, being hit, bullied, locked in a room or separated from others as a means of discipline, being made to do work unfairly or being denied water, food, sleep or contact with my family as a means of discipline. I have the right to be disciplined in a manner that is appropriate to the reason why I am being disciplined, how mature I am, my developmental level, and my medical condition. I must be told why I was disciplined. I may not be restrained for punishment or for the convenience of staff.

7. To have a voice in determining my permanency goal, including, depending on my age or ability, to participate in Service Plan Review meetings and court Permanency Hearings, to give input into the development and review of my service plan. When I am 14 years of age or older, I have the right to choose two members of my case planning team, who are not my foster parent, case manager, case planner or caseworker. When I am 14 years or older, I also have the right to receive services that will help me to become a healthy and successful adult and the right to receive, without cost, a copy of my consumer credit reports each year until I am discharged from care. I also have the right to receive assistance in interpreting and resolving any inaccuracies in such reports. In some cases after leaving foster care, I have a right to continued contact from a caseworker and possibly to return to foster care.

8. To receive dental, medical, vision, mental and behavioral health services regularly, and more often as needed. I have the right to receive guidance on family planning and to consent to reproductive health care services regardless of my age, if my doctor or other medical professional determines that I am able to make these decisions.
After I am 18 years of age, and have been in foster care for at least six months, and discharged to my own care, I have a right to my United States birth certificate, social security card, health insurance information, medical records and a driver’s license or state issued identification, if eligible.

9. To receive a free and appropriate education until I receive a high school diploma or IEP diploma. I have the right to request assistance in applying to colleges and vocational programs that are in or out of state.

10. To participate in activities that are appropriate for my age and development, such as after-school activities, summer activities, work experience, to attend or not to attend religious services in my faith, and to practice my religion, if I have one. When I am at least 16 years old, I have the right to apply for my driver’s license. I have the right to ask for and to receive guidance in getting a job.

Who should I talk to if I feel that my rights are not being respected?

You have the right to report anyone who does not respect your rights, and you do not need to fear being punished for reporting them.

You can:

- Explain what is happening with your caseworker, parent or guardian and possibly the judge at your court case. You can ask to talk with your caseworker in private.
- Contact your caseworker’s supervisor and explain the situation. You can ask to talk with your caseworker’s supervisor in private.
- Contact your lawyer (Attorney for the Child). Your conversations with your lawyer (Attorney for the Child) are completely private. Your lawyer (Attorney for the Child) cannot tell anyone else what you talk about with him or her, except if he or she has your permission, or if your safety is at risk (talk to your lawyer about this).

I, ____________________________________________, have received a copy of the New York State Bill of Rights for Children and Youth in Foster Care and I have discussed it with my caseworker, my parent(s) (birth or adoptive) or guardian(s), and my foster parent(s), if applicable.

_____________________________  ____________________  _________________  
Child/Youth Name (print)  Child/Youth Signature  Date

_____________________________  ____________________  _________________  
Caseworker Name (print)  Caseworker Signature  Date

_____________________________  ____________________  _________________  
Supervisor Name (print)  Supervisor Signature  Date

_____________________________  ____________________  _________________  
Parent/Guardian Name (print)  Parent/Guardian Signature  Date

_____________________________  ____________________  _________________  
Foster Parent Name (print)  Foster Parent Signature  Date
Como niño o joven en el sistema de cuidado de crianza del Estado de Nueva York, tengo derecho a:

1. Vivir en una residencia segura, amable, saludable y adecuada, donde esté seguro y libre de explotación, donde me traten con respeto y donde tenga suficiente comida y ropa adecuada. Vivir en un ambiente menos restrictivo y más hogareño, en el que pueda existir con seguridad y recibir servicios.

2. Ser tratado con justicia y respeto, y recibir atención y servicios sin discriminación de raza, color de piel, origen nacional, edad, religión, género, identidad de género y expresión de género, orientación sexual, estado civil, discapacidad física o mental, o el hecho de que yo esté en el sistema de cuidado de crianza.

3. Visitar a mis padres biológicos o adoptivos, a menos que el tribunal o la agencia haya determinado que esto no está en mi mejor interés o que los derechos de mis padres hayan sido terminados o abandonados. Si he tenido hijos propios mientras estaba bajo cuidado de crianza, tengo el derecho a vivir con mi hijo(a) y de tomar decisiones por mi(s) hijo(s), a menos que el tribunal determine que no puedo.

4. Vivir con mis hermanos y hermanas a menos que el tribunal o mi agencia haya determinado que esto no está en mi mejor interés o en el mejor interés de mis hermanos o hermanas, y de visitar a mis hermanos y hermanas con regularidad si no vivimos juntos, a menos que el tribunal o un trabajador de caso haya determinado que no está en mi mejor interés o en el mejor interés de uno de mis hermanos o hermanas, o la distancia me impida visitarlos.

5. Conocer el nombre y la información de contacto de mi trabajador de caso, del supervisor de mi trabajador de caso, y de mi abogado (abogado del niño). Tengo derecho a por lo menos una visita mensual con mi trabajador de caso, y a ponerme en contacto con mi trabajador de caso o mi abogado (abogado del niño) cuanto lo necesite en privado, si lo solicito, y de que mi trabajador de caso y/o mi abogado (abogado del niño) responda a mis intentos de contactarme con ellos. Tengo derecho a que mis archivos e información personal se mantengan en privado y sólo se divulguen a las personas o entidades que tengan el derecho legal de verlos.

6. Estar libre de castigos crueles, duros e innecesarios, que incluyen pero no se limitan a ser golpeado, acosado, encerrado en una habitación o separado de los demás como medio de disciplina, ser obligado a trabajar de manera injusta o ser privado de agua, alimentos, sueño o el contacto con mi familia como medio de disciplina. Tengo derecho a ser disciplinado de una manera adecuada, de acuerdo al motivo por el que estoy siendo disciplinado, al grado de mi madurez, al nivel de mi desarrollo y a mi condición médica. Se me debe informar la razón por la que se me disciplinó. No se me debe castigar con restricciones físicas o por conveniencia del personal.

7. Tener una voz en la determinación de mi objetivo de permanencia, dependiendo de mi edad o capacidad, incluyendo la participación en reuniones de Revisión del Plan de Servicios y audiencias de permanencia judiciales para dar voz en el desarrollo y la revisión de mi plan de servicios. Cuando tenga 14 años o más, tengo derecho a escoger a dos miembros de mi caso de planificación, quienes no sean mi padre/madre de crianza, administrador de caso, planeador de caso o trabajador de caso. Cuando tenga 14 años o más, también tengo derecho a recibir servicios que me ayuden a ser un adulto sano y exitoso, y el derecho a recibir gratuitamente una copia de mi informe de crédito cada año hasta que me den de alta del cuidado que recibo. También tengo derecho a recibir ayuda en interpretar y resolver las inexactitudes en tales informes. En algunos casos, después de salir del sistema de cuidado de crianza, tengo derecho a mantener contacto continuo con un trabajador social y, posiblemente, reingresar al cuidado de crianza.
8. A recibir servicios dentales, médicos, de oftalmología y de comportamiento regularmente y más a menudo si es necesario. Tengo derecho a ser orientado sobre planificación familiar y consentir a servicios de salud reproductiva sin tomar en cuenta mi edad, si mi médico y otro profesional médico determina que soy capaz de tomar decisiones. Después de cumplir 18 años de edad y haber estado bajo cuidado de crianza por lo menos seis meses, y dado(a) de alta a mi propio cuidado, tengo derecho a mi partida de nacimiento de los EE.UU., tarjeta de seguro social, información de seguro de salud, registros médicos y a una licencia de conducir o identificación emitida por el estado, si soy elegible.

9. A recibir una educación gratuita y apropiada hasta que reciba mi diploma de la escuela secundaria o el diploma del IEP. Tengo derecho a solicitar asistencia para aplicar a las universidades y a programas vocacionales que se encuentren en o fuera del estado.

10. A participar en actividades que sean apropiadas para mi edad y nivel de desarrollo, como actividades después de la escuela, actividades de verano, experiencia laboral, atender o no servicios religiosos en mi fe y practicar mi religión, si tengo una. Cuando tenga por lo menos 16 años de edad, tengo derecho a solicitar una licencia para conducir. Tengo derecho a pedir y recibir orientación para conseguir un trabajo.

¿A quién debo hablar si siento que no se respetan mis derechos?

Tienes derecho a denunciar a cualquier persona que no respete tus derechos, y no tienes que temer ser castigado por reportarlos. Tú puedes:

- Explicar lo que está pasando con tu trabajador de caso, padre o madre, tutor y posiblemente el juez de tu caso ante el tribunal. Tú puedes pedir hablar con tu trabajador de caso en privado.
- Contactar al supervisor de tu trabajador de caso y explicarle la situación. Puedes pedir hablar con el supervisor de tu trabajador de caso en privado.
- Contactar a tu abogado (abogado del niño). Tus conversaciones con tu abogado (abogado del niño) son completamente privadas. Tu abogado (abogado del niño) no puede compartir con nadie lo que tú compartas con él/ella, excepto cuando él o ella tenga tu permiso para compartir información o cuando tu seguridad esté en riesgo (habla con tu abogado sobre esto).

Yo, __________________________________________________________________________ he recibido una copia de la Declaración de Derechos de los Niños y Jóvenes en Cuidado de Crianza del Estado de Nueva York y la he discutido con mi trabajador de caso, mi padre/madre o ambos (biológicos o adoptivos) o tutor/tutores, y mi padre/madre de crianza o ambos, si se aplica.

__________________________________________________________________________

Nombre del Niño/Joven (en imprenta) ________________________________ Firma del Niño/Joven __________________________ Fecha ______________

__________________________________________________________________________

Nombre del Trabajador de Caso (en imprenta) __________________________ Firma del Trabajador de Caso __________________________ Fecha ______________

__________________________________________________________________________

Nombre del Supervisor (en imprenta) ________________________________ Firma del Supervisor __________________________ Fecha ______________

__________________________________________________________________________

Nombre Padre/Madre o Tutor(a) (en imprenta) __________________________ Firma del Padre/Madre o Tutor(a) __________________________ Fecha ______________

__________________________________________________________________________

Nombre Padre/Madre de Crianza (en imprenta) __________________________ Firma del Padre/Madre de Crianza __________________________ Fecha ______________