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| ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 97 ADM-14

TO: Commissioners of
Social Services

DIVISION: Services and
Community
Development

DATE: June 27, 1997

SUBJECT: Referral of a Freed Child to
New York State Adoption Services

SUGGESTED

DISTRIBUTION: | Foster Care Staff
| Adoption Staff
| Legal Staff
| Staff Development Coordinators

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ATTACHMENTS: | A. DSS-2703(Rev.4/97) Referral of Child to State
| Adoption Services (Not available on-line)
| B. Declaration of Interest in Adopting
| (Available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18NYCRR			
		420	SSL		
		421	153-d 372-f		

I. PURPOSE

The purpose of this directive is to advise social services districts of changes in Department regulations and policy related to the referral of foster children who are freed for adoption to New York State Adoption Services (NYSAS). These changes implement the provisions of Chapter 83 of the Laws of 1995 and Chapter 559 of the Laws of 1992.

II. BACKGROUND

Chapter 559 of the Laws of 1992 redesignated section 372-c of the Social Services Law (SSL) as section 372-f of the SSL. Section 372-f of the SSL requires the establishment of a statewide adoption service as a means of recruiting adoptive families for children who have been legally freed for adoption but who have not been placed in an adoptive home within three months of being freed. This service is required to provide photographs and descriptions of such children, and any other information considered useful in the recruitment of adoptive families for these children.

Chapter 559 of the Laws of 1992, for the first time, also provided that, upon referral, the Department may determine whether photo listing should be delayed for certain categories of freed children including those children who are residing with relatives and who do not have the goal of adoption, and those children who are not emotionally prepared for adoption. However, the statute limited the time for the delay of children not emotionally ready for adoption to a six-month period after which the child had to be photo listed if such child was not placed in an adoptive home. Although the changes were meant to provide more flexibility in the photo listing requirements, because the statute failed to deal also with other categories of children who should not be photo listed (e.g., children placed with foster parents who intend to adopt, and children not in an adoptive placement but for whom two or more families have been identified for possible placement), the imposition of a one time six-month delay resulted in an increase in the number of children who were required to be photo listed and who were really not available for adoption.

Consequently, Chapter 83 of the Laws of 1995 further amended section 372-f of the SSL to provide that an authorized agency did not have to refer to NYSAS, a legally freed child where: such child is placed with a foster parent who has expressed in writing, an interest in adopting the child; or where two or more possible adoptive placements have been identified for the freed child.

III. PROGRAM IMPLICATIONS

In compliance with the provisions of Chapter 559 of the Laws of 1992 and Chapter 83 of the Laws of 1995, Department regulation Part 420 was amended effective December 4, 1996. The major changes include:

- _ a change in Part 420 from "Registration requirements" to "Referral to the State Adoption Services" to reflect the language in statute;
- _ children who may receive a six-month delay in photo listing;
- _ children who may receive a waiver from photo listing; and
- _ children who do not have to be referred.

Procedures for Referral to NYSAS:

(A) Photo listing: Except where a waiver of photo listing or a waiver of referral is authorized as noted below, each legally freed child who has been in foster care for a period of three months or more and is not in an adoptive placement must be referred to NYSAS within 10 working days of being freed for adoption. The procedures for photo listing a child have not changed. The agency must submit the revised referral form (DSS-2703 4/97) with a recent photograph and a written description of the child:

(1) Photograph: Submit an attractive color photo that is less than one year which shows the full face of the child. Overly comic, moody or frowning photos are not acceptable. The child should be dressed appropriately and should not be wearing an identifying shirt or uniform. The photo should not include any other persons or identifying signs, unless the picture is of a sibling group. Contrast between the child's skin color and background should be considered so that the child is clearly visible and discernible. The child's first name, CIN number, and agency name should be written on the back of the photo. Do not staple, tape or glue the photograph to the form.

To ensure that the child's photograph is submitted within the required time frame, arrangements should be made to have photographs of the child as soon as the goal of adoption is established for the child. Professional photographs should be used whenever possible. School photos are also acceptable. Polaroids do not reproduce well and therefore are UNACCEPTABLE. Children who are registered with the National Adoption Exchange are eligible for free photographs from Sears photo studios.

(2) Written Description: The narrative should open with a positive statement regarding the child's activities and interests, age, month and year (but not day) of the child's birth. The child's behavior, personality and age level at which the child functions should be stated in an objective manner. Describe health problems in non-technical terms and if/why the child is on medication. Academics should include grade, reading and math levels. The narrative should be submitted on Part I of DSS-2703. DO NOT include in the narrative: names of medications prescribed for the child; names of schools or centers; labels like mentally retarded, handicapped or autistic-like,

etc.; comments regarding foster or biological family; information on incest, abuse or sexual activity; or details relating the reasons for removal from previous caretakers. NYSAS RESERVES THE RIGHT TO EDIT THE NARRATIVE AND TO BRING IT INTO COMPLIANCE WITH PHOTO LISTING STANDARDS.

(B) Delay in photo listing: For children referred for photo listing, section 372-f of the SSL allows photo listing of a child to be delayed where the Department determines that photo listing is not in the child's best interests because the child is not emotionally prepared for an adoptive placement.

To request a delay: An agency must submit a photograph and a written description, check the box in part II (Delay in Publication Requested) of the revised DSS-2703, and provide a written statement from a psychiatrist, psychologist or certified social worker verifying that the child is not emotionally prepared for an adoptive placement. NYSAS will inform the agency of the approval or disapproval of their request. A delay in photo listing will be given for a one-time period of six months starting from the date the child was referred to NYSAS. If the child is not placed in an adoptive home by the end of the six-month period, he/she will be immediately photo listed. There will be no extensions given on delays.

Note: The written statement should be provided by the psychiatrist, psychologist or certified social worker currently working with the child, who can "demonstrate through the written statement" the current emotional situation of the child that prevents recommending placement of the child in an adoptive home. If the statement is incomplete or insufficient, NYSAS may request additional information. The agency must supply the additional information within 15 working days of notification from NYSAS.

(C) Waiver of photo listing: An agency may request that photo listing of a freed child be waived when:

(1) the child has been placed with a relative within the third degree of consanguinity of the parents of the child and the child does not have a permanency goal of adoption; or

(2) the child is 14 years or older and will not consent to his or her adoption.

To request a waiver of photo listing: An agency must enter the appropriate Child Care Review System (CCRS) code that indicates the reason the child qualifies for a waiver of photo listing (See Systems Implications for the corresponding code. Please note that a code is not given for the child placed with a relative and does not have a goal of adoption. These children are tracked differently in the system. (Also, see the explanation under "Adoption Monitoring System Impact."))

Note: If the child's goal changes to adoption, the child must be referred (submit DSS 2073 with a photo and written description) to NYSAS. Exception: See the section on "Changes in the Status of a Child Subsequent to Referral."

(D) Waiver of Referral: An agency is not required to refer (submit DSS-2703 with a photo and written description) a child freed for adoption when:

(1) the child has been placed with a foster parent who has expressed in writing an interest in adopting the child;

Note: The Department has provided a copy of a suggested "Declaration of Interest in Adopting" form to be used by agencies which do not have a comparable form for this purpose (see attachment). It is important that any comparable form include at a minimum: (1) a statement that the adoptive parent was informed that the child was freed and available for adoption, or in the case of an expedited adoption, that the child is to be freed for adoption; and (2) a statement that the foster parent understands that by signing the form he/she is indicating a written intent to adopt the child. Written documentation of the intent to adopt should be directly related to the freeing of the child for adoption. It is recommended that the document not be dated earlier than six months prior to the date of freeing, or in the case of an expedited adoption, as soon as the goal of adoption is set, nor later than the date the waiver of referral code is entered. The signed form/letter must be placed in the child's record on or before the date the waiver of referral code is entered.

If at anytime before finalization of the adoption the foster parent withdraws his/her interest in adopting the child or is disapproved as an adoptive parent for the child, the child must be referred (submit DSS-2703 with a photo and a written description) to NYSAS.

(2) the agency has identified two or more placements for the child. If the child has not been placed into an adoptive home within nine months of the date the child was freed for adoption, the child must be referred (submit DSS-2703 with a photo and a written description) to NYSAS.

To indicate a waiver of referral: An agency must enter the CCRS code that will indicate the reason a freed child does not have to be referred to NYSAS (See section on System Instructions for the appropriate codes). This will allow NYSAS to track the legal status of these children and ensure that the required time frame is met for cases where two or more placements have been identified for the child. Also, "agency has identified two or more placements" means that there is a completed home study on file for each placement, the parents have been approved as adoptive parents, the agency has specified in the child's record the two or more homes identified as possible placements, and the agency is in the process of deciding in which home to place the child.

IV. REQUIRED ACTION

Based on the effective date of this directive, authorized agencies must refer to NYSAS within 10 working days of being freed, each legally freed child who has been in foster care for a period of three months or more and is not in an adoptive placement. The referral must be made either by submitting DSS-2703 with the written description and a photo of the freed child, or by entering the appropriate code requesting a waiver of photo listing. For those children who qualify for a waiver of referral, agencies must enter the appropriate CCRS waiver of referral code.

Failure to submit DSS-2703 with a photo and written description, or to enter the appropriate codes within the time frame specified in regulation, will place an authorized agency in violation of regulations and put the case into a section 153-d sanction status.

CHILDREN CURRENTLY IN A DELAY STATUS: Authorized agencies will be given six months from the effective date of this directive to place children who qualify for a delay in photo listing based on the current statutory provision into an adoptive placement. For those children who do not qualify for a delay in photo listing, agencies must enter the appropriate code that will indicate the appropriate status for the child (e.g., waiver of photo listing, or waiver of referral). NYSAS will review the status of all children currently in the delay status. Children remaining in the "old" delay status at the end of the six months will have to be photo listed unless they are placed for adoption.

CHANGES IN THE STATUS OF THE CHILD SUBSEQUENT TO REFERRAL TO NYSAS: Once a referral is made to NYSAS or a code is entered in CCRS to indicate a waiver of referral, any changes in the status of the child must be reported to NYSAS within five working days after the change occurred.

(A) Changes in status for a child who was photo listed: The A520 code is to be used only in reporting a status change for a child who has been listed in the "Blue Book". Do not use this code to indicate a change in status for a child for whom an agency initially entered a waiver code. Three new values have been added to the A520 code. They represent categories added by statute with the same time frames and/or requirements:

- (1) child not emotionally ready (one-time period of six months);
- (2) foster parents interested in adoption (in writing).
- (3) two or more families interested (nine-month period);

(B) Changes in status for a child who was waived: Usually, if the goal for a child who received a waiver of photo listing or a waiver of referral changes to adoption, the child must be referred to NYSAS for photo listing.

Exception: (1) If a child 14 years and older who received a waiver of photo listing changes his/her mind and consents to adoption and the child is being adopted by his/her foster parent(s), the agency is permitted to enter an A512 code. However, the foster parent(s) must provide a written statement/form indicating their interest in adopting the child.

(2) If the goal for a child who is placed with an approved relative changes to adoption and the relative is interesting in adopting, the agency must first indicate a change in the child's goal to adoption and then enter the A512 indicating that the approved relative (foster parent) is interested in adopting. The approved relative must provide a written statement/form indicating their interest in adopting the child.

Withdrawal from NYSAS: A child's name will be withdrawn from NYSAS when an agency enters a CCRS code which indicates that:

- (1) the child has been placed in an adoptive home;
- (2) the child has reached his or her 18th birthday, and will not consent to the agency's adoption plan;
- (3) the child has been discharged from foster care;
- (4) the child has been adopted; or
- (5) the child has died.

V. SYSTEMS IMPLICATIONS

(A) Child Care Review System (CCRS) Impact:

1. NEW ADOPTION ACTIVITY CODES TO BE ENTERED BY SOCIAL SERVICES DISTRICT:

A512 Waiver of Referral

Mod A contains the reason for not needing a referral to NYSAS

A = Foster parents have expressed interest in writing in adopting child

B = Two or more potential placements identified

Mod B contains the freed date (A499) and should be system-generated

Mod C contains a system generated date (freed date + 9 months), if the reason in MOD A = B.

MOD D IS BLANK

A513 Waiver Removed/Needs Referral

Mod A contains the reason for needing a referral to NYSAS

A = Child is 14, now consents to be adopted

B = Potential placement no longer identified

C = Foster parents not interested in adopting

Mod B, C, and D are blank

A516 Waiver of Photo listing

Mod A contains the reason for the waiver

A = Child age 14, does not consent to be adopted

Mod B, C and D are blank

(2) NEW ADOPTION ACTIVITY CODES TO BE ENTERED BY NYSAS:

A514 Delay in Photo listing

Mod A contains the reason for the request for delay

A = Child not emotionally ready

Mod B contains the freed date (system generated from the A499)

Mod C is data entered and must be a valid date between the A499 plus 6 months)

(3) ADOPTION ACTIVITY CODES THAT WILL BE DISABLED:

A504 (old delay approved is replaced by code A514)

A510 (old Photo List Waiver - Child 14 replaced by code A516)

(4) CHANGES TO EXISTING ADOPTION ACTIVITY CODES:

A520 and A525 (district enters A520 and NYSAS enters A525)

A = Too many Inquiries (no change)

B = Child Visiting Home (no change)

New values for Mod A:

C = Child Not Emotionally Ready

D = Foster Parents expressed interest (in writing) in adopting

E = Two or more families interested

(B) Adoption Monitoring System (AMS) Impact:

(1) Waiver of Referral: A new event (number 2) has been added to Milestone 2. The children in this category are now part of the active AMS population and modifications incorporating these children are found throughout AMS.

(2) Waiver Removed/Needs Referral: A new event (number 4) has been added to Milestone 2. The children in this category are now part of the active AMS population and modifications incorporating these children found throughout AMS.

(3) Waiver of Photo Listing: The children in this category are a new population within AMS. There are two reasons for a waiver of photo listing: the child is 14 years and does not have a goal of adoption; or the child is placed with a relative and does not have a goal of adoption. No additional or special codes need to be entered into CCRS for the children placed with relatives. However, a A516 must be entered for a child age 14 who does not want to be adopted. There are new sections in the AMS manual documenting these additional groups of children. These sections will be named in the following example: III-W: Defining a Child Population for Review for Children with a Photo list Waiver.

(4) AMS Manual: The system changes necessary to implement the changes in regulation have been documented in the AMS manual. To access information in AMS manual: VIA OFISLINK IN ELIB AND TYPE IN AMSMAN/AMS MANUAL.

VI. ADDITIONAL INFORMATION

The following questions were added to the revised form (DSS-2703 and must be complete for each child being referred to NYSAS:

- _ Are there siblings who are not being placed with this child?
- _ Child to be listed on INTERNET?

A supply of the DSS-2703 (4/97) forms will be sent to agencies. Upon receipt of the forms, authorized agencies should destroy any remaining supplies of the old version of the form. Future requests for DSS 2703 (4/97) should be submitted on Form DSS-876 (Rev. 00/96): "Request for Forms or Publications", and should be sent to:

New York State Department of Social Services
Bureau of Forms and Print Management
P.O. Box 1990
Albany, New York 12201

Question concerning ordering forms should be directed to the Office of Systems Development (OSD) by calling 1-800-343-8859, ext. 4-2702.

VII. EFFECTIVE DATE

This directive is effective June 30, 1997 retroactive to December 4, 1996.

Rose M. Pandozy
Deputy Commissioner
Division of Services and
Community Development

DECLARATION OF INTEREST IN ADOPTING

Name of Child _____ D.O.B. _____

Name of Foster Mother _____

Name of Foster Father _____

Address of Foster Parent(s) _____

Name of Authorized Agency _____

I/we have been informed by the authorized agency named in this document that my/our foster child is legally/will be freed for adoption and of the provision in law that allows foster parents preference and just consideration to adopt a foster child who has been in their home for 12 months or more.

I/we have been informed of the referral and photo listing requirements for children freed for adoption. I/we understand that foster parents wishing to adopt their foster child must submit a signed declaration of interest in adopting to avoid the child being photo listed and placed in the "Blue Book" as available for adoption.

I/we understand that by signing this form I/we am/are declaring my/our interest in adopting my/our foster child named in this document.

Foster Mother's Signature

Foster Father's Signature

Agency Representative's Signature

Date