



# Office of Children and Family Services

Kathy Hochul  
Governor

52 WASHINGTON STREET  
RENSSELAER, NY 12144

Suzanne Miles-Gustave, Esq.  
Acting Commissioner

## Administrative Directive

<b>Transmittal:</b>	23-OCFS-ADM-06
<b>To:</b>	Local Departments of Social Services Commissioners Voluntary Authorized Agencies Executive Directors
<b>Issuing Division/Office:</b>	Office of Strategic Planning and Policy Development
<b>Date:</b>	May 2, 2023
<b>Subject:</b>	<b>Providing Services to Children of Undocumented Immigrants</b>
<b>Suggested Distribution:</b>	Social Services Directors Voluntary Authorized Agencies Staff Child Protective Services Supervisors Child Welfare Supervisors Foster Care Supervisors Staff Development Coordinators
<b>Contact Person(s):</b>	Please see section V.
<b>Attachments:</b>	None

### Filing References

Previous ADMs/INFs	Releases Canceled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
	17-OCFS-ADM-06	18 NYCRR 403.7(b) and (d)	SSL §§ 122(2) and 398-e PL 104-193 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) Chapter 447 of the Laws of 2022 Chapter 56 of the Laws of 2022		NYS Executive Order [A. Cuomo] No. 170 (continued by NYS Executive Order [Hochul] No. 6)

### I. Purpose

The purpose of this Administrative Directive (ADM) is to remind local departments of social services (LDSSs) and voluntary authorized agencies (VAs) that no child who is a United States citizen or who is lawfully residing in the United States can be denied any social services for which the child is otherwise eligible because of the residency status of the child’s parent(s) or custodial relative(s).<sup>1</sup> This ADM also reminds LDSSs and VAs that undocumented immigrants<sup>2</sup> who are receiving services may not be

<sup>1</sup> 18 NYCRR 403.7 (d).

<sup>2</sup> Undocumented immigrants are people who entered the United States unlawfully or people whose visas are no longer valid.

reported to immigrant enforcement personnel unless otherwise required by law.<sup>3</sup> This ADM cancels and replaces 17-OCFS-ADM-06 that previously addressed this topic.

## II. Background

The New York State Office of Children and Family Services (OCFS) serves New York's public by promoting the safety, permanency and well-being of the state's children, families, and communities. Immigrant families may face many of the same difficulties non-immigrant families deal with, including poverty. However, immigrant families are also more likely to face language barriers, lack of health care, health insurance, and other resources more readily available to non-immigrant families. Undocumented parents or custodial relatives may choose not to seek the services that their children need for fear that accessing such services will bring them to the attention of immigration enforcement personnel.

Like all families, undocumented families may come into contact with New York's child welfare system. That contact could be for many reasons, including a report registered by the Statewide Central Register of Child Abuse or Maltreatment (SCR) regarding an allegation of child abuse or maltreatment. Statutory and regulatory requirements have been established in New York state to protect undocumented immigrants from being reported to immigration enforcement personnel and to provide child welfare services to children and families without regard to immigration status:

- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PWORA") required agencies that administered Supplemental Security Income (SSI), housing assistance programs under the United States Housing Act of 1937, or block grants for temporary assistance for needy families to furnish information. Under PWORA, services "necessary for the protection of life or health" and benefits which have been determined not to be "federal public benefits" are permitted regardless of immigration status. This law did not require child welfare officials to report the receipt of child welfare services by undocumented immigrants to federal immigration authorities.
- In 2010, OCFS amended 18 NYCRR 403.7(b) to remove the requirement to report undocumented immigrants receiving referral services and protective services to the United States Department of Homeland Security.
- In 2017, Governor Andrew Cuomo issued New York State Executive Order 170 that prohibits state agencies and officers from inquiring about an individual's immigration status unless necessary to determine eligibility for a benefit or service, or if required by law. This executive order also prohibits disclosing an individual's immigration status to federal immigration authorities for enforcement purposes, unless required by law.
- In 2022, Governor Kathy Hochul signed Chapter 447 to classify certain threats to report a person's immigration status as extortion or coercion under New York law.

## III. Program Implications

A child who is a United States citizen, or who is lawfully residing in the United States, is entitled to receive any social service for which the child is otherwise eligible,<sup>4</sup> regardless of the residency status of the child's parent(s) or custodial relative(s).<sup>5</sup>

A child who is not lawfully residing in the United States is entitled to receive information and referral services, child protective services, and foster care services.<sup>6</sup>

---

<sup>3</sup> NYS Executive Order [A. Cuomo] No. 170 (continued by NYS Executive Order [Hochul] No. 6).

<sup>4</sup> Qualified immigrants and United States citizens are subject to federal eligibility requirements for federal benefits.

<sup>5</sup> 18 NYCRR 403.7 (d).

<sup>6</sup> 18 NYCRR 403.7 (b), SSL §§ 122 (2) and 398-e.

Undocumented children are eligible for Child Health Plus and emergency Medicaid and may be eligible for other programs including, but not limited to, school nutrition programs and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). They may be eligible to apply for lawful immigration status including Special Immigrant Juvenile Status, asylum, or lawful permanent residence through a family member or an employer.

LDSSs and VAs may not inquire about an individual's immigration status unless necessary to determine eligibility for a program, benefit or service, or otherwise required by law. LDSSs and VAs may not disclose information to federal immigration authorities for the purpose of federal civil immigration enforcement unless required by law.<sup>7</sup>

#### IV. Required Action

LDSSs and VAs may not deny appropriate service(s) to a child, for which the child is otherwise eligible, regardless of the residency status of the child's parent(s) or custodial relative(s)/kin.<sup>8</sup>

LDSSs and VAs must provide child welfare services to families without regard to immigration status of the child or the child's parent(s) or custodial relative(s)/kin. These include information and referral services, child protective services, and foster care services.

In accordance with Executive Order 170, LDSSs and VAs are prohibited from

- inquiring about the immigration status of any child or person seeking, receiving, or being referred to or considered for services unless necessary to determine eligibility; and
- reporting such child's or person's immigration status to immigration enforcement personnel.

#### Language Access Law of New York State

The FY 2023 Enacted Budget mandates all state agencies that interact with the public to provide interpretation services in any language and translation services in the top 12 most common non-English languages spoken in New York state. This includes translation of vital documents, including essential public documents such as forms and instructions provided to or completed by program beneficiaries or participants.<sup>9</sup> For more information, visit <https://ogs.ny.gov/new-york-state-language-access-law>.

#### Access to Legal Services

Free legal screenings and consultations, trainings, immigration application assistance, and other free legal services are available to immigrant clients. The New Americans Hotline at 1-800-566-7636 will refer individuals to the nearest legal provider or legal clinic. Assistance is available in over 200 languages. For more information, visit <https://dos.ny.gov/office-new-americans>.

<sup>7</sup> NYS Executive Order [A. Cuomo] No. 170 (continued by NYS Executive Order [Hochul] No. 6).

<sup>8</sup> 18 NYCRR 403.7(d).

<sup>9</sup> Chapter 56 of the Laws of 2022.

**V. Contacts**

Buffalo Regional Office - Amanda Darling (716) 847-3145

[Amanda.Darling@ocfs.ny.gov](mailto:Amanda.Darling@ocfs.ny.gov)

Rochester Regional Office - Christopher Bruno (585) 238-8201

[Christopher.Bruno@ocfs.ny.gov](mailto:Christopher.Bruno@ocfs.ny.gov)

Syracuse Regional Office - Sara Simon (315) 423-1200

[Sara.Simon@ocfs.ny.gov](mailto:Sara.Simon@ocfs.ny.gov)

Albany Regional Office - John Lockwood (518) 486-7078

[John.Lockwood@ocfs.ny.gov](mailto:John.Lockwood@ocfs.ny.gov)

Westchester Regional Office - Sheletha Chang (845) 708-2498

[Sheletha.Chang@ocfs.ny.gov](mailto:Sheletha.Chang@ocfs.ny.gov)

New York City Regional Office - Ronni Fuchs (212) 383-1788

[Ronni.Fuchs@ocfs.ny.gov](mailto:Ronni.Fuchs@ocfs.ny.gov)

Native American Services - Heather LaForme (716) 847-3123

[Heather.LaForme@ocfs.ny.gov](mailto:Heather.LaForme@ocfs.ny.gov)

Close to Home Oversight - Donte Blackwell (212) 383-7261

[Donte.Blackwell@ocfs.ny.gov](mailto:Donte.Blackwell@ocfs.ny.gov)

**VI. Effective Date**

This release is effective immediately.

***/s/ Thomas R. Brooks, Esq.*** \_\_\_\_\_

**Issued by:**

Name: Thomas R. Brooks, Esq.

Title: Deputy Commissioner

Division/Office: Office of Strategic Planning and Policy Development