



# Office of Children and Family Services

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## Administrative Directive

<b>Transmittal:</b>	23-OCFS-ADM-15
<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 Division of Child Welfare and Community Services Division of Youth Development and Partnerships for Success
<b>Date:</b>	September 22, 2023
<b>Subject:</b>	<b>Updated New York State Bill of Rights for Children and Youth in Foster Care</b>
<b>Suggested Distribution:</b>	Social Services Directors Voluntary Agency Program Directors Voluntary Agency Staff Staff Development Coordinators Foster Care Supervisors
<b>Contact Person(s):</b>	See Section VI.
<b>Attachments:</b>	Attachment A: <a href="#">Pub. 2001, New York State Bill of Rights for Children and Youth in Foster Care</a> Attachment B: <a href="#">Pub. 2002, My Rights in Foster Care</a> Attachment C: <a href="#">Pub. 5180, My Rights in Foster Care: An Activity Book for Young Children in Care</a> Attachment D: <a href="#">Pub. 5181, Step-by-Step Guidance on Distribution and Review of the Bill of Rights for Youth Aged 14 and Older</a>

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
11-OCFS-ADM-01 15-OCFS-ADM-17 22-OCFS-ADM-01 22-OCFS-ADM-04	15-OCFS-ADM-18 17-OCFS-INF-08	18 NYCRR §§428.6, 428.9, 430.12	Social Security Act §475A		Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)

### I. Purpose

The purpose of this Administrative Directive (ADM) is to inform local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of the release of an updated *New York State Bill of Rights for Children and Youth in Foster Care* (Pub. 2001) (Bill of Rights), formerly OCFS-2132, and a new document titled *My Rights in Foster Care* (Pub. 2002). This ADM also releases an updated desk

aid to assist caseworkers with the provision of the Bill of Rights, titled *Step-by-Step Guidance on Distribution and Review of the Bill of Rights for Youth Aged 14 and Older* (Pub. 5181). This ADM cancels and replaces 15-OCFS-ADM-18.

OCFS previously released *My Rights in Foster Care: An Activity Book for Young Children in Care* (Pub. 5180) to assist younger children in foster care to learn about their rights. The activity book is attached to this ADM, and therefore the Informational Letter (INF) that previously released the activity book, 17-OCFS-INF-08, is cancelled.

## II. Background

The New York State Bill of Rights for Children and Youth in Foster Care was initially released on December 30, 2014, by the New York State Office of Children and Family Services (OCFS) via 14-OCFS-INF-06 and was the result of a collaboration between youth in foster care and OCFS staff. The INF recommended providing and discussing the Bill of Rights with all children in foster care 5 years of age or older.

On September 29, 2014, President Barack Obama signed the federal Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), which amended section 475A of the Social Security Act (SSA) to require that all youth in foster care 14 years of age and older be provided with a list of their rights with respect to education, health, safety, visitation, court participation, and access to consumer credit reports. In addition, the law and OCFS regulation,<sup>1</sup> require that the youth must sign an acknowledgement that they have 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. As a result of these new mandates, 14-OCFS-INF-06 was cancelled and replaced with 15-OCFS-ADM-18, which is also cancelled as of the release of this ADM.

New and updated rights for youth in foster care have been established since the last version of the Bill of Rights was released in 2015. The *New York State Bill of Rights for Children and Youth in Foster Care* (Pub. 2001) (Bill of Rights) has therefore been updated to clarify and include additional rights. Feedback is incorporated from youth and parents with lived experience within the child welfare system including, but not limited to, the OCFS Youth Advisory Board, the OCFS Parent Advisory Board, and the OCFS Family Policy Advisors. Such feedback also led to the creation of an additional publication *My Rights in Foster Care* (Pub. 2002), to provide youth with a simplified visual version of the Bill of Rights.

## III. Program Implications

The Bill of Rights has been updated to reflect the rights of youth in foster care 14 years of age and older in age-appropriate language. Additions to the Bill of Rights include, but are not limited to, the following provisions:

- To stay in my current school unless my agency decides, with my input, that changing schools is in my best interest.<sup>2</sup>
- To receive appropriate, confidential legal help with my immigration status.<sup>3</sup>
- To agree to remain in foster care after I turn 18 years old until I am 21.<sup>4</sup>

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<sup>1</sup> 18 NYCRR 428.6.

<sup>2</sup> [22-OCFS-ADM-01](#).

<sup>3</sup> [11-OCFS-ADM-01](#).

<sup>4</sup> [22-OCFS-ADM-04](#).

- To be informed that I can request to come back into foster care (reenter) between the ages of 18 and 21.<sup>5</sup>
- To be informed that I may be eligible for continued health insurance coverage until I am 26 years of age regardless of how long I was in foster care.<sup>6</sup>

The document titled *My Rights in Foster Care* (Pub. 2002) is also attached to this ADM. This one-page document is designed to provide a clear and concise visual representation of the rights youth have in foster care. This document must be provided to youth in foster care 14 years of age and older, along with the Bill of Rights. These documents must be explained to youth in an age-appropriate manner.

Pub. 2001 and Pub. 2002 are available in Spanish, Arabic, Bengali, Chinese, French, Haitian Creole, Italian, Korean, Polish, Russian, Urdu, and Yiddish. They can be downloaded from the OCFS website at [ocfs.ny.gov/publications/](https://ocfs.ny.gov/publications/).

*Step-by-Step Guidance on Distribution and Review of the Bill of Rights for Youth Aged 14 and Older* (Pub. 5181) provides step-by-step directions on the provision of the Bill of Rights for youth aged 14 and older. LDSSs and VAs should share this desk aid with casework staff.

#### IV. Required Action

LDSSs and VAs are required to provide every youth in foster care 14 years of age and older with the updated Bill of Rights (Pub. 2001) and the new document entitled *My Rights in Foster Care* (Pub. 2002). It is important that all youth are made aware of the changes. Therefore, every youth must receive these documents even if they had previously received OCFS-2132, which is now obsolete.

Caseworkers must explain the rights listed in the Bill of Rights to the youth in an age-appropriate way, answer any questions the youth has, and explain any local or agency practices that impact how the youth can exercise those rights.

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 next Family Assessment Service Plan (FASP).

The Bill of Rights must be reviewed with participants at the first Service Plan Review (SPR)<sup>7</sup> that occurs after a youth in foster care turns age 14, or after placement if the youth is age 14 or older, and should be reviewed annually at each Service Plan Review (SPR) thereafter. See the attached *Step-by-Step Guidance on Distribution and Review of the Bill of Rights for Youth Aged 14 and Older* (Pub. 5181) for more detail.

It is good casework practice to ask the youth during each monthly casework contact whether they have any concerns or questions about their rights. It is important to recognize that the youth's developmental ability, interests, and understanding of the document change as the youth ages.

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<sup>5</sup> [22-OCFS-ADM-04](#).

<sup>6</sup> [15-OCFS-ADM-17](#).

<sup>7</sup> 18 NYCRR 428.9, 18 NYCRR 430.12.

### Children in foster care under the age of 14

LDSSs and VAs are reminded of the availability of *My Rights in Foster Care: An Activity Book for Young Children in Care* (Pub. 5180). This publication is also available in Spanish (Pub. 5180-S) and can be downloaded on the OCFS website at [ocfs.ny.gov/publications/](https://ocfs.ny.gov/publications/). The information in this book was designed as a tool that caseworkers may use with children in foster care whose age or developmental level makes it difficult for them to understand the Bill of Rights. Caseworkers are strongly encouraged to sit with the child, assist the child in completing the booklet, and use it as a starting point to discuss rights with the child. The caseworker may invite other adults involved in the child's life to participate with the child in completing the booklet, including foster parents or kinship caregivers.

LDSSs and VAs should continue to promote the well-being of all children and youth by providing and explaining the Bill of Rights to all children ages 5-13 who are in foster care.

## **V. Systems Implications**

The Bill of Rights must be completed for any youth 14 years of age or older with a Program Choice of Placement before a FASP can be submitted for approval or review. A link to the Bill of Rights window is available in the navigation pane of the FASP window and as an element on the Check FASP Detail window when a FASP is in process. Clicking either link opens the Bill of Rights window, which displays all children in the stage with a Program Choice of Placement.

Selecting a child younger than 14 years of age results in a pop-up message alerting the worker that the Bill of Rights applies only to children who are 14 years of age or older.

Selecting a child 14 years of age or older displays the statement, "Youth has received a copy of the Bill of Rights" with radio buttons to select "Yes" or "No".

- If the choice selected is "No," no other field will be displayed.
- If the choice selected is "Yes," the following three additional fields will be displayed.
  - Date Received: The worker must enter the date the 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.
  - The Bill of Rights has been appropriately explained to youth. The worker must select "Yes" or "No."
  - Signature Status: The caseworker must choose one of three options from the drop-down box: "Youth signed the statement," "Youth refused to sign," or "Youth unable to sign."
- If information already exists for the youth, the fields will be prefilled when the youth is selected. The worker can 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 sign it later, the caseworker can update the window to reflect that change.

## **VI. Contacts**

Any questions concerning this release should be directed to the appropriate regional office, Division of Child Welfare and Community Services:

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## VII. Effective Date

This release is effective immediately.

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