



Andrew M. Cuomo
Governor

NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES
52 WASHINGTON STREET
RENSSELAER, NY 12144

Gladys Carrión, Esq.
Commissioner

Administrative Directive

Transmittal:	12-OCFS-ADM-07
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	August 9, 2012 <i>Cancelled August 21, 2015; replaced by 15-OCFS-ADM-13.</i>
Subject:	Required Annual Credit Checks for Foster Children, 16 Years of Age and Older
Suggested Distribution:	Directors of Social Services Child Welfare Supervisors Staff Development Coordinators CONNECTIONS Implementation Coordinators
Contact Person(s):	Any questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: BRO- Dana Whitcomb (716) 847-3145 Dana.Whitcomb@ocfs.state.ny.us RRO- Karen Buck (585) 238-8549 Karen.Buck@ocfs.state.ny.us SRO- Dan Comins (315) 423-1200 Daniel.Comins@ocfs.state.ny.us ARO- Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.state.ny.us SVRO- Raymond Toomer (845) 708-2498 Raymond.Toomer@ocfs.state.ny.us NYCRO- Patricia Beresford (212) 383-1788, ext. 4708 Patricia.Beresford@ocfs.state.ny.us Native American Services – Kim Thomas (716) 847-3123 Kim.Thomas@ocfs.state.ny.us
Attachments:	Appendix A: National Credit Reporting Agencies Information
Attachment Available Online:	No

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR 428.3 (b) (2) (vi) and 430.12 (k)	Section 106 of the Child and Family Services Improvement and Innovation Act (P.L. 112-34); § 475 (5) (1) of the Social Security Act [42 U.S.C. § 675 (5) (I)]; and § 603 (d) of the Fair Credit Reporting Act [15 U.S.C. § 1681 et. seq.]		DHHS Program Instruction ACYF-CB-PI-12-07

I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSS) and voluntary authorized agencies of an important new provision of federal law, added by the Child and Family Services Improvement and Innovation Act (P.L.112-34) pertaining to foster youth identity theft, which went into effect on October 1, 2011.

II. Background

Child identity theft occurs when someone uses a minor's personal information to commit fraud. A thief may steal and use a child's information to get medical care, government benefits, a job, utilities, a loan, or a mortgage. When a child or youth in foster care is a victim of identity theft, there may be a credit report associated with the youth. This report may contain errors in the identifying information, like the date of birth and address, because the thief may have used the child's Social Security number, but his own date of birth and address.

Children in foster care are especially vulnerable to identity theft. When foster care children have had multiple placements, more people have the opportunity to gain access to their personal information. Because these children also have fewer opportunities to use and/or check their financial information, they may not know if they have been a victim of identity theft until after they have aged out of care.

In an effort to combat identity theft, federal law now requires that for any youth in foster care at age 16 or older, the state must provide, without cost, a copy of any consumer report pertaining to the youth each year until the youth is discharged from care. The new federal law also requires that the youth receive assistance, including when feasible from any court-appointed advocate for the child, with interpreting and resolving any inaccuracies in the reports. This is especially important since credit report ratings may be used to determine the youth's future eligibility for credit, student or car loans, insurance, housing, and employment.

The Office of Children and Family Services (OCFS) is currently amending regulations to implement the standards required by this new federal law.

III. Program Implications

The Child and Family Services Improvement and Innovation Act, as clarified by the federal Department of Health and Human Services (DHHS), requires that each foster child who is age 16 years or older must receive a copy of all credit report(s) that may be on file with any of the three (Trans Union, Equifax, and Experian) nationwide credit reporting agencies (CRAs) annually, until the child is discharged from foster care, and must receive assistance in interpreting and resolving any inaccuracies in the report(s). The LDSS is responsible for identifying whether the LDSS or, if a youth is placed with a voluntary agency, such voluntary agency will be responsible for completing the annual credit check with the youth. Receipt of a copy of credit reports on file with the three nationwide CRAs satisfies the federal requirement that the foster child 16 years of age or older receive a copy of any consumer report annually. (See also the federal program instruction: http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2012/pi1207.pdf)

The Fair Credit Reporting Act (FCRA) 15 U.S.C. § 1681 et. seq., requires each of the three nationwide CRAs to provide free credit reports for consumers upon request once every 12 (twelve) months. Each of these companies collects information from different sources. The information in a report from one company may not reflect all, or the same, information from the other two companies.

A credit report contains identifying information, lists of accounts, credit inquiries, items of public record and positive and negative credit entries. Identifying information includes name, addresses (current and past), Social Security number, date of birth, and employment information. The types of accounts that may be found on the credit report include: credit card accounts, mortgages, loans, and installment accounts such as car loans. The report will include the date the accounts were opened, credit limits, loan amounts, account balances, and payment history. A list of credit inquiries over the last two years, as well as any information on bankruptcies, foreclosures, lawsuits, wage garnishments, liens, judgments, or overdue debts will be listed in the report.

IV. Required Action

A. Credit Reports

This new law requires annual credit checks with all three CRAs (Trans Union, Equifax, and Experian) for each foster child who is age 16 years or older. Youth under the age of 18 may not obtain a credit report without assistance, because minors do not have the legal capacity to sign a contract or apply for credit.

B. Annual Credit Check Responsibility

The LDSS is responsible for identifying whether the LDSS or, if a youth is placed with a voluntary agency, such voluntary agency will complete the annual credit check with the youth. For the purpose of this ADM, the “worker” is defined as staff designated by the district/agency with case management, case planning or casework responsibility, as determined by the local district with legal

custody of the foster child, including where feasible, any court-appointed advocate. The worker must contact all three CRAs to request credit checks for each youth in foster care who is age 16 years or older, annually, until the youth is discharged from care. The worker must also assist the youth with interpreting the reports and resolving any inaccuracies with the credit bureaus. The agency responsible for the youth may enlist a court appointed advocate, if any, to assist the youth in interpreting the reports and resolving any issues. The worker must document any and all efforts to assist the youth in the youth's case record progress notes.

Youth ages 18 years or older may request their own free credit reports. However, workers must work with these youth and the credit bureaus in interpreting and resolving any inaccuracies in the report(s). The agency responsible for the youth may enlist a court appointed advocate, if any, to assist the child in interpreting the reports and resolving any issues. The worker must document any and all efforts to assist the youth in the youth's case record progress notes.

All three credit checks may be requested for each youth:

- at one time, or
- spaced out throughout the calendar year, or
- it may be more productive to request information from one credit reporting agency before reaching out to the other two, to allow for any errors or theft found in one credit report to be corrected and cleared from the other two CRAs prior to requesting additional credit reports.

We are aware that certain foster youth may not have a Social Security number. Such youth include qualified and non-qualified immigrants, but could include other youth. Use of a Social Security number is the primary identifier that CRAs use to run credit checks. We are currently exploring with the CRAs whether there is any other means of conducting the credit check. We have also raised this issue with the federal government. We will advise as new information becomes available.

C. Requesting Credit Reports for Children in Foster Care Less Than 18 Years of Age

The most common method to request a credit report for an adult is to use the www.annualcreditreport.com website. This website cannot be used to request a credit report on a child under the age of 18. Each of the three CRAs is independently exploring the development of an automated secure online system to complete batch credit checks for children less than 18 years of age. Currently Transunion is the only CRA that can complete an automated secure online credit check for children less than 18 years of age. The other two CRAs require written requests for credit checks to be submitted by mail. Each of the CRAs has provided information on whom to contact so that each LDSS and/or agency can work with each CRA to develop a workable approach to obtain credit reports for

foster care youth less than 18 years of age (see Appendix A: National Credit Reporting Agencies Information).

Securely maintaining and transferring the youth's information is extremely important. The LDSS and/or agency must develop a protocol for workers who are charged with obtaining credit reports for foster care youth. The protocol must minimally include procedures that: protect the youth's identity and personal information from misuse; securely transfer the youth's information to CRAs; and securely collect, maintain and document the results of the annual credit checks and any attempts to resolve inaccuracies.

In order to request a credit check for a child less than 18 years of age, all three CRAs require verification that the requestor has the right to request the information and proof that the youth is in foster care.

1. Establishing and verifying the identity of the requestor

In order to prove that the person requesting a credit report has the legal authority to do so, each LDSS or agency needs to determine which document to send to prove that the worker has the right to request a credit report on behalf of a child less than 18 years of age. One example of a document that can be used is a copy of a county or agency ID badge.

2. Establishing and verifying the youth is in foster care

To prove that the youth is in foster care, a court order or other document that proves that the child is in foster care must be sent to the CRA. If there is concern about confidential information contained in the court order, most CRAs allow the court order to be redacted as long as the child's identifying information remains.

Youth under the age of 18 are not expected to have a credit report because they do not have the legal capacity to enter into a contract or apply for credit. It is expected that most credit check inquiries on children less than 18 years of age will confirm that no report exists. If a credit report does exist for a youth under the age of 18 years, it may be due to an error, fraud, or identity theft and therefore the information must be corrected, and action taken to protect the youth's identity and future credit worthiness.

If any credit reports are obtained, the worker must meet with the youth to assist the youth in interpreting and understanding the credit reports. If the credit report shows any inaccuracies, the worker must resolve these with the youth and the credit bureaus.

Workers should meet with the youth to discuss their credit check even if no credit report is obtained. This is an opportunity to teach the youth the importance of protecting and safeguarding personal and confidential information.

This should include a discussion about the importance of protecting his or her Social Security card by not carrying it and/or showing it to others, and the dangers of sharing personal information on the Internet, especially on social networking sites. Workers should also discuss the importance of annually checking his or her credit to protect against identity theft or mistakes.

D. Requesting Credit Reports for Youth Over 18 Years of Age

Youth over the age of 18 are more likely to have a credit report than are youth less than 18 years of age. Workers should work with the youth to do credit checks, using one of the methods described below. This may include making the request(s) together at a computer, or having the youth obtain the report(s) him- or herself and then share them with the worker. Once the credit report(s) is obtained, the worker must assist the youth to interpret and understand it. If any credit report shows inaccuracies, the worker is responsible for resolving these with the youth and the credit bureaus. This is an opportunity to teach the youth the importance of protecting and safeguarding personal and confidential information. This should include a discussion about the importance of protecting his or her Social Security card by not carrying it and/or showing it to others, and the dangers of sharing personal information on the Internet, especially on social networking sites.

There are three methods to obtain a credit report for youth 18 years of age and over. The easiest method may be to do an online credit check; however, credit reports may also be requested by phone or by mail. These three methods allow for one or more of the CRAs to be checked simultaneously.

1. Online Requests

AnnualCreditReport.com is the official website to obtain free credit reports. This is the quickest and easiest way to receive a report. The website address is: www.annualcreditreport.com/

2. Requests by Phone

To request a credit report by phone, call 1-877-322-8228. A simple verification process will be completed over the phone. The credit report will be mailed and can be expected within two to three weeks.

3. Requests by Mail

Download and complete the request form from:
www.annualcreditreport.com/cra/order?mail

Mail the completed form to:

Annual Credit Report Request Service
P.O. Box 105281
Atlanta, Georgia 30348-5281

The credit report will be mailed and can be expected within two to three weeks.

Youth over the age of 18 may request their own free credit reports. Each LDSS or agency must have a documented procedure on how to work with youth who prefer to obtain their own credit reports, and how the LDSS or agency will assist in interpreting and resolving any inaccuracies with the youth and the credit bureaus.

If a youth over 18 objects to having his or her credit report requested, the worker must document efforts to comply with the new law. The LDSS or agency will not be considered out of compliance if it fails to obtain a credit report due to a youth's documented objection in the youth's case record progress notes.

E. Resolving Credit Report Conflicts

When identity theft or mistakes are suspected, the worker is responsible for assisting the youth in resolving any and all inaccuracies. Once it is discovered that a foster youth is a victim of identity theft, the steps described below must be taken by the responsible worker to prevent further harm. Written documentation with the details of all efforts made must be maintained in the youth's case record progress notes. Copies of all correspondence must be maintained in the youth's external case record.

1. Contact the CRAs

Workers must contact the three CRAs. CRAs may require documentation to verify that the youth is in foster care and the agency is authorized to act of the youth's behalf.

For youth less than 18 years of age, it is important to send each CRA a letter explaining that the child is a minor who cannot legally enter into a contract. To prove that the child is less than 18 years of age, send each CRA a copy of the child's birth certificate and/or other documentation of age, such as a court order. The letter should also request that they remove all accounts, application inquiries, and collection notices from the credit report associated with the youth's name or personal information.

For youth 18 years of age and older, the worker must send each CRA a letter requesting that they remove all accounts, application inquiries, and collection notices from the credit report associated with the youth's name or personal information.

2. Place an Initial Fraud Alert

If a credit report exists for the youth as a result of identity theft, place an initial fraud alert on the report. An initial fraud alert requires potential

creditors to verify a person's identity before extending credit. The initial fraud alert is free and lasts 90 days.

To place an initial fraud alert, the worker must contact any one of the three CRAs. That CRA must contact the other two. All three will place the initial fraud alert on the report they have for the child. After placing the initial fraud alert, the CRA will explain the youth's rights, including the right to get an additional free credit report from each CRA.

3. Consider an Extended Fraud Alert

If a credit report was created for the youth as a result of identity theft, the worker should consider placing an extended fraud alert on behalf of the youth, with his or her knowledge. An extended fraud alert, just like the initial fraud alert, requires potential creditors to verify a person's identity before extending credit. The extended fraud alert is free and lasts seven years. To place an extended fraud alert, CRAs require an Identity Theft Report (see below #6). An extended fraud alert entitles the identity theft victim to two free credit reports within 12 (twelve) months from each of the CRAs.

4. Consider a Security Freeze

If there is a credit report for the youth as a result of identity theft, the worker should also consider placing a security freeze. Once a security freeze is placed, potential creditors cannot get the youth's credit report, which makes it less likely an identity thief can open new accounts. Placing a security freeze on the youth's credit report can be a useful deterrent to additional fraud.

A certified letter requesting the freeze may be sent to each of the CRAs to place the freeze. The CRAs may ask for proof of the youth's Social Security number, proof that the worker is legally able to represent the youth and a copy of the youth's birth certificate. A police report or Identity Theft Affidavit (see #6 and #7 below) is required to place a security freeze. The first security freeze is free; subsequent requests may cost five dollars. Security freezes remain active until a request is placed to lift the freeze. It is important that the worker lift the freeze before the youth applies for: loans (ex. student or auto), credit cards, an apartment, or job. Workers must lift the freeze before a youth leaves care unless the youth requests that the freeze not be lifted and he or she understands the ramifications of not lifting the freeze. Once the child turns age 18, he or she can ask the CRAs to lift the freeze.

Additional information about placing a security freeze in New York State, including sample letters to CRAs, can be found at:

<http://www.consumersunion.org/pdf/security/securityNY.pdf>

5. Call Every Company Where an Account Was Fraudulently Opened or Misused

The worker must review the youth's credit report for any accounts opened in the youth's name. If a fraudulent account is found to be in the name of a child less than 18 years of age, contact the company where the account was opened and explain to the business that the youth is a minor. For all youth, ask the company to close the fraudulent account and flag the account to show it is a result of identity theft. Follow up with each business in writing. Ask for a letter stating that the company has closed the disputed accounts and has discharged the fraudulent debts. This letter will enable the youth to dispute erroneous charges if errors relating to the account reappear on his or her credit report in the future. When contacting creditors, letters should usually be sent to the business's fraud or billing department.

6. File an Identity Theft Affidavit with the Federal Trade Commission (FTC)

Visit www.ftc.gov or call 1-877-IDTHEFT (1-877-438-4338) to file a report about the theft of the youth's identity. After the report is filed with the FTC, print and sign a copy. This will be called an Identity Theft Affidavit. Give a copy of the FTC Identity Theft Affidavit to the police when filing the police report. An identity theft report will also help in resolving non-financial identity theft issues (ex. medical, tax and employment) and will enable a youth to obtain additional free credit reports. Place a copy of the FTC Identity Theft Affidavit and police report, if applicable, in the youth's external case record.

7. File a Police Report

It is important to file a police report, as it may be needed to resolve other instances of identity theft. Youth ages 18 year and older must file a police report if identity theft is suspected before they can use certain legal remedies to clear a credit report. The situation may be different for youth less than 18 years of age, because credit reporting companies may correct a minor victim's credit report without a police report.

8. Consider Creating an Identity Theft Report

For youth less than 18 years of age, providing information that the youth is a minor should be sufficient to correct fraudulent debts on the youth's credit report, but a worker should also consider taking advantage of rights available to identity theft victims under the Fair Credit Reporting Act (FCRA).

For youth 18 years and older, creating an identity theft report should be considered. The FCRA enables identity theft victims to block erroneous charges from appearing on their credit reports and to get documents like applications and contracts to prove the underlying crime.

Creating an identity theft report involves three steps:

- a. Submit a complaint about the theft to the FTC. After including all the details, print a copy of the report. It will print as an Identity Theft Affidavit (same as #6 above).
- b. File a police report about the identity theft, and get a copy of the police report or the report number. Bring the FTC Identity Theft Affidavit to the police when the police report is filed (same as #7 above).
- c. Attach the FTC Identity Theft Affidavit to the police report to make an Identity Theft Report.

For more information, see *Statement of Rights for Identity Theft Victims* at <http://www.ftc.gov/bcp/edu/pubs/consumer/idtheft/idt09.pdf>.

Additional information about disputing a credit report can be found at the Federal Trade Commission's Facts for Consumers "How to Dispute a Credit Report" at: www.ftc.gov/bcp/edu/pubs/consumer/credit/cre21.pdf

F. Required Documentation

The worker responsible for the foster youth must document that the youth was provided with any annual credit reports that may exist and must also document any assistance that was provided by the agency to the foster youth in interpreting the report and/or resolving any inaccuracies in the report.

For a foster child who is 18 years of age or older, documentation must also include whether the youth requested his or her annual credit report directly from the CRAs, and whether or not the youth informed the worker that he or she intended to request the annual credit report directly from the CRAs, as well as any efforts provided by the worker to obtain the report. If the youth 18 years of age or older chose not to request his or her consumer report directly from the credit reporting agency, the worker must document (in the youth's case record progress notes) whether the youth consented or objected to the agency making such request on his or her behalf, and the efforts made by the worker to encourage the youth to obtain his or her annual credit report. Credit reports must also be requested for youth in foster care, 18 years of age or older who because of physical or mental disability lack the capacity to object or consent. Any or all issues of inaccuracies or fraud in such report(s) must be resolved by the worker.

All credit check documentation must be made in the youth's case record progress notes from the time the youth turns 16 years of age until the youth is discharged from foster care. All correspondence or paper documents must be retained in the youth's external case record.

G. Additional Information

Information for obtaining a free credit report can be found at The Federal Trade Commission (FTC) Free Annual Credit Reports website at:
www.ftc.gov/bcp/edu/microsites/freereports/index.shtml

The FTC has a "Facts for Consumers" website for additional information on consumer rights under the FCRA. This can be accessed at
<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre34.shtm>

The Federal Trade Commission's Identity Theft website is a national resource to learn about the crime of identity theft. It provides detailed information to help deter, detect, and defend against identity theft.
<http://www.ftc.gov/bcp/edu/microsites/idtheft/>

The New York City Office of Consumer Affairs has additional information specific to New York City and New York State at:
<http://www.nyc.gov/html/ofc/html/protect/alert.shtml>

V. Systems Implications

There are no new system requirements.

VI. Effective Date

This release is effective immediately, retroactive to October 1, 2011.

/s/ Nancy W. Martinez

Issued By:

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

Appendix A

National Credit Reporting Agencies Information			
	Equifax	Experian	Tranunion
Contacts	Contact: Gary Poch Phone: 678-795-7787 Email: gary.poch@equifax.com Contact: Troy Kubes Phone: 678-795-7777 Email: troy.kubes@equifax.com	Contact: Cathy Jones Phone: 714-830-7218 Email: cathy.jones@experian.com Contact: Jonathan Sepe Phone: 714 830-7227 Email: jonathan.sepe@experian.com	Contact: Angela Harp Phone: 714-680-7268 Email: aharp@transunion.com Contact: Eric Rosenberg Phone: 312-466-6323 Email: erosenb@transunion.com
Secure online access available	N/A	N/A	Nominal one-time set up charge and annual fee apply
Specific directions for submitting requests for credit checks for youth less than 18 years of age	None given	Send court ordered document for each credit report requested indicating youth is in foster care and provide documentation showing ability to act in that capacity. Sensitive information can be redacted from the court order as long as the identification of the minor remains intact. Must include a form with all the youth identification information including, full name, current address, Social Security number, date of birth, addresses within the past two years. Specify in the request the address to which you want the no record or credit report sent. Recommend USPS Priority, UPS or FedEx because they offer a tracking feature. Mail to: Experian National Consumer Assistance Center PO Box 9701 Allen, Texas 75013	None given
Directions for disputing for youth less than 18 years of age	None given	Submit court order indicating youth is in foster care and documentation for the agency to act in the capacity of the court order. Must include identification information about youth, including full name, current address, Social Security number, date of birth, address for past two years or the credit report number from the report that was received. Indicate what accounts do not belong to the youth. Indicate that the youth is a minor.	None given
For assistance with fraud resolution	www.equifax.com	None given	800-372-8391 or PO Box 6790 Fullerton, CA 92831 Attn: Foster Youth Fraud Investigations
For additional information	www.equifax.com	None given	None given