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## Administrative Directive

<b>Transmittal:</b>	15-OCFS-ADM-01
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Strategic Planning and Policy Development
<b>Date:</b>	January 8, 2015
<b>Subject:</b>	<b>Definition of Siblings and Expansion of the Relative Notification Requirements</b>
<b>Suggested Distribution:</b>	Directors of Social Services Child Protective Services Supervisors Child Welfare Supervisors Staff Development Coordinators
<b>Contact Person(s):</b>	Questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: Buffalo Regional Office- Dana Whitcomb (716) 847-3145 <a href="mailto:Dana.Whitcomb@ocfs.ny.gov">Dana.Whitcomb@ocfs.ny.gov</a> Rochester Regional Office- Karen Buck (585) 238-8201 <a href="mailto:Karen.Buck@ocfs.ny.gov">Karen.Buck@ocfs.ny.gov</a> Syracuse Regional Office- Sara Simon (315) 423-1200 <a href="mailto:Sara.Simon@ocfs.ny.gov">Sara.Simon@ocfs.ny.gov</a> Albany Regional Office- Kerri Barber (518) 486-7078 <a href="mailto:Kerri.Barber@ocfs.ny.gov">Kerri.Barber@ocfs.ny.gov</a> Spring Valley Regional Office- Yolanda Désarmé (845) 708-2499 <a href="mailto:Yolanda.Desarme@ocfs.ny.gov">Yolanda.Desarme@ocfs.ny.gov</a> New York City Regional Office- Raymond Toomer (212) 383-1808 <a href="mailto:Raymond.Toomer@ocfs.ny.gov">Raymond.Toomer@ocfs.ny.gov</a> Native American Services- Heather LaForme (716) 847-3123 <a href="mailto:Heather.LaForme@ocfs.ny.gov">Heather.LaForme@ocfs.ny.gov</a>
<b>Attachments:</b>	Attachment A - Sibling Parent Notification Letter (Model letter)
<b>Attachments Available Online:</b>	<a href="#">KinGAP Relative Notification Letter</a> (Model letter) <a href="#">KinGAP Relative Notification Letter (Spanish)</a> (Model letter)

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
92-ADM-24 09-OCFS-ADM-04 11-OCFS-ADM-03		18 NYCRR Parts 421 and 430; 18 NYCRR 431.10	SSL §§384-a and 409-e(1)(d); FCA §§1027-a & 1055; SSA §§471 & 475 [42 U.S.C. §§671 & 675]		Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)

## I. Purpose

The purpose of this Administrative Directive (ADM) is to address implementation of provisions of the recently enacted federal Preventing Sex Trafficking and Strengthening Families Act (P.L.113-183) regarding the appropriate notification of relatives when a child is removed from his or her home. The policy also addresses an associated clarification of the definition of a sibling. Implementation of these provisions is necessary for New York State to continue to maintain a compliant federal Title IV-E State Plan, which is a condition for New York State and Local Departments of Social Services (LDSSs) to receive federal funding for foster care, adoption assistance and the Kinship Guardianship Assistance Program (KinGAP).

This policy clarifies existing New York State standards for conformance with applicable federal requirements.

## II. Background

On September 29, 2014, President Obama signed into law the Preventing Sex Trafficking and Strengthening Families Act (the Act), which amended various provisions of Titles IV-B and IV-E of the Social Security Act (SSA). The provisions of the Act addressed in this release were effective immediately upon enactment. This policy is limited to only those provisions of the Act regarding the expansion of the range of relatives who must be notified when a child is removed from his/her home or when parents voluntarily transfer care and custody of the child in accordance with Social Services Law (SSL) §384-a, and a related clarification of the definition of a sibling. Future releases will address other requirements of the Act.

Section 209 of the Act amended SSA §471(a)(29) [42 U.S.C. §671(a)(29)] to require that, when a child is removed from his or her home, relative notification for the purpose of finding a placement for such child must also include notifying "...all parents of a sibling of the child, where such parent has legal custody of such sibling." In addition, the Act added a definition of a sibling in SSA §475 [42 U.S.C. §675]. The Act defines a sibling to mean "an individual who satisfies at least one of the following conditions with respect to a child: (A) the individual is considered by State law to be a sibling of the child. (B) The individual would have been considered a sibling of the child under State law but for the termination or other disruption of parental rights, such as the death of a parent."

Federal law previously relied only on the state's definition of the term "sibling." As noted above, the Act now specifically states that the definition of a sibling must include an individual who would be considered a sibling by state law if it were not for the death of a parent or disruption of parental rights by surrender or termination of parental rights.

### **III. Program Implications**

The provisions of the Act specify that the relative notification requirement must also include the birth or adoptive parents of a child's sibling, with legal custody of such sibling, among the adult relatives who must be identified and notified when a child is removed from his or her home. In addition, good practice includes the notification of adult siblings of the child.

New York State has regulatory standards that address both the notification of relatives when a child is removed from his/her home, and the placement and visitation of siblings.

#### **Relative Notification**

Current New York State standards require that LDSSs notify a child's grandparents and other adult relative(s), including adult relatives suggested by the parent(s), when a child has been removed from the custody of his or her parent(s) or when parents voluntarily transfer care and custody of the child. OCFS regulation 18 NYCRR 430.11(c)(4) provides that the LDSS must exercise due diligence in identifying all of the child's grandparents and other adult relatives in the circumstances cited above, but does not expressly specify who is considered a relative. With the Act's requirement for relative notification, the birth or adoptive parents with legal custody of the removed child's sibling(s) or half-sibling(s) are now considered to be adult relatives for whom the LDSS must exercise due diligence to identify and provide notification in accordance with OCFS regulation 18 NYCRR 430.11(c)(4). The OCFS regulation further states that the relative notification must describe the available options for the care and custody of the child and the opportunities that may be lost by the failure of a timely response to such notification. LDSSs have been provided with tools to make these notifications and to review options with the relatives so notified. See [09-OCFS-ADM-04](#) and [11-OCFS-ADM-03](#) and their associated tools and handbooks for additional information on relative notification and sibling placement. In particular, the letter templates KinGAP Relative Notification Letter and KinGAP Relative Notification Letter (Spanish) from 11-OCFS-ADM-03 may be used for notifying identified relatives. The new model letter, Sibling Parent Notification Letter, may be used for notifying the parents of a child's siblings.

#### **Placement and Visitation of Siblings**

New York State law addresses the placement and visitation of siblings. SSL §409-e(1)(d) includes half-siblings in the definition of siblings for the purposes of placement and visitation rights. It states, in part, that an assessment of the child identified for consideration for foster care placement must include "...whether the child will be placed with the child's sibling and half-siblings and, if not, the reasons therefor and the arrangements made for contact between the siblings and half-siblings..." In addition,

Family Court Act §§1027-a and 1055(b)(i)(C) address the placement of siblings and half-siblings in abuse or neglect cases.

It has been longstanding New York State policy that sibling placement and visitation requirements apply to both siblings and half-siblings. Directive 92-ADM-24 includes a definition of “siblings” that includes “half-siblings” as “children who have one parent in common.” New York statute, regulation and policy provide that the relationship of a child to his or her sibling or half-sibling does not end with the death of a parent or the termination or surrender of parental rights.

Several OCFS regulations address sibling placement issues. OCFS regulation 18 NYCRR 431.10 specifies the rights of children regarding placement and visitation with their siblings and half-siblings in foster care placements. This regulation further provides for siblings and half-siblings to be placed together whenever possible unless such placement is not in the best interests of the child. Other references to the placement and visitation requirements for siblings and half-siblings can be found at 18 NYCRR Parts 421 and 430.

#### **IV. Required Action**

As used in regard to relative notification and sibling placement and visitation, a sibling is defined as either a sibling (both parents in common) or a half-sibling (one parent in common) related by blood or adoption. Neither the death of a parent nor the voluntary or involuntary termination of parental rights changes this sibling relationship.

When a child is removed from his or her home, the LDSS must exercise due diligence to identify and notify relatives of the child to determine if a relative could be a placement resource. A history of family or domestic violence may exclude a relative from consideration.

The following relatives of the child should be considered potential placement resources:

- All grandparents of the child;
- All parents of a sibling or half-sibling of the child where such parent has legal custody of the sibling. This includes both biological and adoptive parents:
  - ✓ the common parent having legal custody of a sibling or half-sibling;
  - ✓ the non-common parent having legal custody of a sibling or half-sibling;
  - ✓ the adoptive parent of a sibling or half-sibling;
- Other adult relatives of the child, including any other adult relative suggested by the parents.

*/s/ Thomas R. Brooks*

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