



Office of Children and Family Services

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Administrative Directive

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| Transmittal: | 15-OCFS-ADM-22 |
| To: | Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies |
| Issuing Division/Office: | Strategic Planning and Policy Development |
| Date: | September 28, 2015 |
| Subject: | Case Planning for Youth in Foster Care 14 Years of Age or Older |
| Suggested Distribution: | Directors of Social Services Child Welfare Supervisors Foster Care Supervisors Staff Development Coordinators CONNECTIONS Implementation Coordinators |
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| Attachments: | None |

Filing References

| Previous ADMs/INFs | Releases Cancelled | NYS Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|--------------------|--------------------|---|--|-------------|--|
| | | 18 NYCRR §§428.3(i), 428.6(c), 428.9(b)(1), 430.12(c)(2)(i) | SSA §§475(1)(B), 475(1)(D), and 475(5)(C) FCA §§355.5, 756-a 1089 | | Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) |

I. Purpose

The purpose of this Administrative Directive (ADM) is to address the implementation of provisions of the federal Preventing Sex Trafficking and Strengthening Families Act (the Act) [P.L. 113-183] that focus on case and transition planning for youth in foster care 14 years of age or older.

II. Background

On September 29, 2014, President Obama signed the Act into law. The Act amended various provisions of Title IV-E and IV-B and of the Social Security Act (SSA). For the purposes of this ADM, we will highlight the sections of the law that relate to youth in foster care 14 years of age or older and their transition to adulthood.

Specifically, the Act amends §475(1)(B) of the SSA to require that the case plan must be developed with youth 14 years of age or older, and at the option of the youth, with up to two members of the case planning team who are chosen by the youth and who are not a foster parent, case manager, case planner, or caseworker of the youth. The local department of social services (LDSS) or voluntary agency (VA) with case management responsibilities has the ability to reject an individual selected by the youth to be a member of the case planning team at any time if the agency has good cause to believe that the individual may not act in the best interests of the youth. The youth can designate one of the individuals to be his or her advisor and, as necessary, to advocate on his or her behalf with respect to the foster home's or congregate care facility's application of the reasonable and prudent parent standard.

Additionally, §475(1)(D) of the SSA was amended to require that the case plan of youth 14 years of age or older must include a written description of the programs and services that will help the youth prepare for the transition from foster care to successful adulthood. Finally, §475(5)(C) of the SSA was amended to require that the court consider the services needed to assist in the transition from foster care to successful adulthood at permanency hearings for youth in foster care who are 14 years of age or older. Prior to the Act, both requirements applied to children in foster care who were 16 years of age or older.

These provisions of the Act are effective September 29, 2015. Statutory changes to the Family Court Act (FCA) to address these amendments to the SSA, and regulations promulgated by the New York State Office of Children and Family Services (OCFS), took effect on September 1, 2015.¹

In order to effectively implement these and several other provisions of the Act, OCFS engaged key stakeholders in conversations by conducting focus groups with youth throughout the state, and workgroups with OCFS staff. OCFS led a full-day symposium with LDSSs, VAs, and other stakeholder groups on June 2, 2015, followed by telephone conferences with symposium participants.

¹ Chapter 56 of the Laws of 2015, Sec. 9 (amending FCA §355.5), NYS Register, June 17, 2015 p. 5 (18 NYCRR §§428.3(i), 428.6(c), 428.9(b)(1) and 430.12(c)(2)(i)(a)).

III. Program Implications

Two major purposes of the Act are to improve opportunities for children and youth in foster care and to support permanency. Youth in foster care face challenges and limitations in their daily life, and these may negatively affect their outcomes in life. There is no “one size fits all” solution to improve a youth’s experiences while in the foster care system, or to improve a youth’s outcomes after he or she exits foster care. Therefore, it is necessary to engage youth in their case planning and to create case plans that address the youth’s unique needs and circumstances. A portion of the case plan for youth age 14 or older, regardless of the permanency planning goal (PPG), must focus on the identification of programs and services that can assist youth in their transition to adulthood and the case plan must include a written description of what programs and services are identified. In addition, OCFS regulation 18 NYCRR 430.12(f) requires that LDSSs and VAs provide structured programs of vocational training and independent living skills to all youth with a goal of another planned permanent living arrangement with a permanency resource (APPLA) goal and those deemed to have an APPLA goal.² Involving and empowering youth in their case planning can lead to better permanency outcomes and improved compliance with the case plan.

Previous regulations recognized the need to involve children in their own case planning by requiring efforts be made to involve children 10 years of age or older in the service plan review (SPR).³ The Act and corresponding amendments to OCFS regulations have expanded on this requirement by mandating that all youth in foster care 14 years of age or older be consulted in the development of the family assessment service plan (FASP) and any amendments made to the FASP, participate in the case consultation, and that the youth is encouraged to participate in the SPR.⁴

IV. Required Action

Although caseworkers have an understanding of the needs and goals of the youth with whom they are working, youth bring their own perspective, ideas, and experiences regarding permanency and service planning. As a result of the Act, youth 14 years of age or older in foster care are considered integral members of the case planning team and are to be given an opportunity to express these ideas and to participate in the development of the case plan.

As a result of the Act, several changes to the case planning and case plan review process were enacted in state statute and OCFS regulations, effective September 1, 2015.

Youth, 14 years of age or older, may select two individuals to serve as members of the case planning team

The Act gives each youth in foster care, 14 years of age or older, the option to identify up to two individuals and to invite these individuals to serve on his or her case planning team. These two members must be chosen by the youth, and cannot be the youth’s

² A child deemed to have a goal of APPLA means “a child 16 years of age or older who resided in foster care for at least 12 months within the past 36 months and who has a goal of discharge to parents or relatives or a goal of adoption.”

³ 18 NYCRR 428.9 (b)(1)(iii) and 430.12(c)(2)(i)(a)(1).

⁴ 18 NYCRR 428.3(i), 428.9 (b)(1), and 430.12(c)(2)(i)(a).

foster parent(s), case manager, case planner or caseworker. The youth may choose one of these individuals to be his or her advisor, and as necessary advocate with respect to the application of the reasonable and prudent parent standard (the standard) to the case planning team. The ADM, *Supporting Normative Experiences for Children, Youth and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard*, 15-OCFS-ADM-21, provides specific guidance on what the standard is and how to apply it.⁵ Only the LDSS or VA with case management responsibility has the authority to reject an individual selected by the youth to be a member of the case planning team. This can be done only if the agency has good cause to believe that the individual would not act in the child's best interests.

The implementation of this requirement is broken down into sections below. Each section contains additional information regarding the mandates of the Act and OCFS regulations, as well as best practice guidance for workers to consider.

Assisting the youth with selecting up to two individuals to serve on the case planning team

Before the youth considers whether to exercise the option to select up to two individuals to his or her case planning team, LDSSs and VAs should first assist the youth in identifying the supportive people in his or her life. Tools such as genograms, life books, and the Youth Connections Scale, located at <http://cascw.umn.edu/wp-content/uploads/2013/12/YCSTool.pdf>, can be used to assist LDSSs, VAs, and the youth in this process. Supportive people may include, among many others, older siblings, teachers, employers, coaches and family friends. Some youth may not be able to or want to identify individuals to be part of their case planning team. Throughout the entire process, the youth should be informed that it is the youth's option to invite these individuals; however the youth is **not** required to do so. The youth **must** have the opportunity to identify these individuals for the development of each FASP and amendments made to the FASP, as well as for each SPR and case consultation. The youth may choose different individual(s) each time; however the LDSS and VA should encourage the youth to invite the same individual(s) in order to provide consistency.

Neither the Act nor OCFS regulations allow LDSSs and VAs to impose a minimum age requirement for these individuals. However, the federal and state standards authorize LDSSs or VAs with case management responsibilities to reject an individual on a case-by-case basis where the LDSS or VA with case management responsibility has good cause to believe that the individual would not act in the best interest of the youth in foster care. If an LDSS or VA has concerns regarding a specific individual's maturity or ability to maintain confidentiality, it may consider rejecting the individual based on the concern that the individual may not act in the youth's best interests. Please see below for more information.

Rejecting individual(s) chosen by the youth to serve on the case planning team

It is anticipated that some individual(s) identified by the youth may not be acceptable to an LDSS or VA. The Act and OCFS regulations allow the LDSS or VA with case management responsibility to reject individual(s), selected by the youth, to be members of the case planning team **only** if the agency has good cause to believe that the

⁵ This ADM can be found at <http://ocfs.ny.gov/main/policies/external/>.

individual(s) would **not** act in the youth's best interests. LDSSs and VAs may not reject an individual(s) that the youth has chosen solely based on his or her age.

If any member of the youth's case planning team has concerns with the individual(s) chosen by the youth, he or she may advise the case manager of his or her concerns. However, it is up to the case manager to consider whether the individual would not act in the youth's best interests and to make the final determination as to whether this individual(s) should or should not be part of the case planning team.

In making this determination, the agency must look at the relationship the youth has with the individual(s) and any potential safety or other issues adverse to the best interests of the foster child that could arise if the individual(s) participates on the case planning team.

Some questions to consider when determining whether an individual(s) may not act in the best interests of the youth include but are not limited to:

- Does the individual(s) have a recent history of unsafe or disruptive behavior at the agency or in the community?
- Is the relationship between the youth and the individual controlling, unhealthy or inappropriate?
- Has a history of abuse or neglect by the individual specifically towards the youth or the youth's siblings been disclosed?
- Does the individual(s) understand the confidential nature of serving on the case planning team? (i.e., the individual(s) is prohibited from sharing case record information that is discussed at the case planning meetings with anyone outside of the case planning team unless otherwise expressly agreed upon by the case planning team.) The individual chosen by the youth to advocate for him or her regarding the standard may discuss the youth, including the FASP and any amendments made to the FASP, with outside individuals **only** with the youth's permission.
- Does the individual(s) have a history of releasing otherwise **confidential** information regarding the youth, the youth's family or other children in foster care (i.e., through public or social media)?

When considering whether an individual may not act in the best interests of the youth for the purposes of being a member of the case planning team, the LDSS and VA may not complete a State Central Register of Child Abuse and Maltreatment (SCR) check through Social Services Law (SSL) §424-a or a background check on the proposed individual through SSL §378-a.

If a case manager chooses to reject individual(s) selected by the youth, he or she **must** document in the CONNECTIONS case progress notes the reason(s) it was determined that the individual(s) would not act in the best interests of the youth, and therefore should not be a member of the case planning team. The case manager should also explain to the youth why the individual(s) were rejected as a member of the case planning team and assist the youth with identifying appropriate individuals to take part in the next case planning meeting.

After the youth identifies the individual(s) he or she wishes to serve on the case planning team, the birth or adoptive parent(s)/guardian(s) **must** be told whom the youth selected.⁶ Workers should explain to the parent(s)/guardian(s) that the youth has the right to have these individual(s) present at the SPR and involved in the development of the FASP and any amendments made to the FASP. Some parent(s)/guardian(s) may object to the individual(s) attending case planning meetings, citing concerns with confidentiality. The worker should help mitigate these concerns by explaining the process used to prepare the case planning team, including the discussion of confidentiality and the signing of a confidentiality agreement, at the discretion of the LDSS and VA, at the beginning of all case planning meetings. If LDSSs and VAs choose to use confidentiality agreements during case planning meetings, they may develop their own confidentiality agreements to use during the case planning meetings. However, at minimum, the confidentiality agreement must state that the case record information discussed at the case planning meeting must not be shared with anyone other than the case planning team unless otherwise expressly agreed upon by the members of the case planning team. If parent(s)/guardian(s) object to the individual(s) due to concerns regarding the youth's safety and/or well-being, they should be asked to share their concerns with the case manager. The case manager can take the parent(s)/guardian(s)' information into consideration when determining whether the individual(s) will act in the youth's best interests. Ultimately the parent(s)/guardian(s) **cannot** refuse to allow the individual(s) chosen by the youth to be a member of the case planning team or for those individual(s) to attend the case planning meetings, with or without the youth present. This requirement also applies to youth who are adjudicated either as persons in need of supervision (PINS) or juvenile delinquents (JD).

Once the youth identifies individual(s) whom he or she wants to serve on the case planning team, the worker **must** request contact information (name, mailing address, and phone number) from the youth for the individual(s). If the youth is unable to provide the worker with the contact information, efforts must be taken to obtain the contact information. If after reasonable efforts, the worker is still unsuccessful in obtaining the contact information, the worker **must** document in CONNECTIONS case progress notes the steps the worker took to obtain the contact information. The worker should explain to the youth that he or she was unable to contact the individual(s) and assist the youth with identifying other appropriate individual(s) to participate in the next case planning meeting. If the individual(s) whom the youth has chosen are under the age of 18, and the case manager makes the determination that the minor individual(s) may join the case planning team, the worker can speak to the parent(s)/guardian(s) of the minor individual(s) whom the youth has chosen in order to inform the parent/guardian of the minor individual's invitation to be part of the case planning team. When doing so, the worker can identify the purpose of the case planning meeting, who will be present, what the individual(s) role is in the meeting, and the logistics of the meeting, but not case specifics of the youth in foster care or family in question. If the parent(s)/guardian(s) refuse to allow the minor individual(s) to participate, the worker should work with the youth to identify other individual(s) to serve on the case planning team.

Youth age 14 years of age or older and two additional individuals (at the option of the youth) must be consulted in the development of the family assessment and service plan (FASP), and any amendments made to it.

⁶ This requirement does not apply to a parent(s) who has surrendered or has had his or her rights involuntarily terminated.

With this new role comes a greater responsibility for youth age 14 and older. Many youth are not confident in their ability to provide information and suggestions on their case plan. LDSSs and VAs should prepare youth for their new roles. Workers should explain to the youth why it is important to take part in his or her own case planning, explaining the youth's role in the development of the FASP, and answering any questions the youth may have about his or her responsibilities. It is equally important that parent(s) and guardian(s) are engaged in this process and are aware of the youth's new role and responsibilities.

Efforts must be made to involve youth 14 years of age or older and two additional individuals (at the option of the youth) in the development and review of the service plan (SPR).

The SPR is conducted in order to review progress made since the last service plan, identify issues that need to be addressed, and develop a new service plan for the case. Efforts **must** be made to involve the youth, 14 years of age or older, and at the option of the youth, two individuals chosen by the youth, in the development and review of the SPR. The level of involvement of the youth in the SPR will be contingent on the availability and capacity of the youth to participate. If the worker determines that the youth does not have the capacity to participate in the SPR, the worker must document the steps taken to make that determination. A written notice must be sent to the youth, and at the option of the youth, the two individual(s) chosen by the youth, at least two weeks prior to the SPR. This notice **must** list the date, time, and location of the SPR. LDSSs and VAs may consider adding language regarding the confidential nature of the SPR within the written notice.

LDSSs and VAs should schedule the SPR in order to avoid conflicts with the youth's school attendance and extracurricular activities. Face-to-face contact is the preferred method of conducting the SPR, so workers may choose, at agency option, to provide transportation to the individual(s) chosen by the youth. However, if transportation or distance is a barrier in the individual(s) participating in the SPR, the individual(s) may appear by phone. Workers must document who was invited to the SPR in the youth's case progress notes.

If either the youth or individual(s) chosen by the youth is unable to attend the SPR, the case planner, where possible, **must, among other requirements listed in OCFS regulations:**

- Meet face-to-face with the youth and/or individual(s) chosen by the youth, no later than 30 days after the date the SPR was held, and give each a summary of the service plan. The meeting must include discussion about the development of the FASP, service plan, decisions made at the SPR, and the youth's desired permanency plan. The input of the individual(s) must be documented and included in the FASP and permanency hearing report.
- In the event that face-to-face contact is not possible, a letter **must** be sent to the youth and individual(s) chosen by the youth. The letter must state that an SPR was held and that a copy of a summary of the service plan will be made available to them upon their request.⁷

⁷ 18 NYCRR 430.12(c)(2)(i)(b).

Youth 14 years of age or older and two additional individuals (at the option of the youth) must participate in the case consultation held to prepare for a permanency hearing.

Unless the SPR will occur within 60 days of the date certain for a permanency hearing, a case consultation **must** be held in order to prepare for the permanency hearing held in accordance with FCA Article 10-A. The purpose of the case consultation is to assist with the development of the permanency hearing report.

Each youth age 14 years of age or older and, at the option of the youth, two individuals, **must** participate in the case consultation. The level of involvement of the youth in the case consultation will be contingent on the availability and capacity of the youth to participate. If the worker determines that the youth does not have the capacity to participate in the SPR, the worker must document the steps taken to make that determination.

Wherever practicable, the case consultation participants **must** meet together at the same time. However, at a minimum, a face-to-face case consultation must be held separately with the youth and the two individuals chosen by the youth. Workers may choose, at agency option, to provide transportation to the individual(s) chosen by the youth. However, if transportation or distance is a barrier in the individual(s) participating in the case consultation, the individual(s) may appear by phone.

The case consultation **must** be documented in the progress notes and the decisions and outcomes **must** be incorporated into the permanency hearing report.

The case plan of youth 14 years of age or older must include a written description of the programs and services which will help them prepare for the transition from foster care to successful adulthood.⁸

The results of assessments such as the Ansell-Casey Life Skills Assessment (ACLSA) (www.caseylifeskills.org) should be used to identify strengths and needs, and serve as a starting point for discussion and identification of the programs and services that youth 14 years of age or older need to help them successfully transition out of foster care. The independent living skills assessment window in CONNECTIONS provides a means for recording the results of these assessments and **must** be completed for all youth in foster care age 14 or older, regardless of the PPG.

All youth in foster care should be provided with training on skills that will help them transition from foster care to adulthood. In addition to these trainings, OCFS regulations require that youth with APPLA goals or those deemed to have APPLA goals be provided with structured vocational training and independent living skills programs, including at least two days per year of formalized group instruction in independent living skills.⁹

Identifying and recording the strengths and needs of the youth is only the first step in the process. Once this information is collected, the case planning team (which the youth must be part of), needs to select independent living skills programs and services that specifically address the youth's needs and interests. When considering which

⁸ FCA §§355.5, 756-a and 1089.

⁹ 18 NYCRR 430.12(f).

independent living skills programs and services a youth should participate in, workers should consider whether the youth will have the ability to practice the life skills, not just read or talk about them. This includes having the opportunity to make mistakes within a safe environment and to be provided with appropriate feedback and mentoring to support the youth as they learn and practice these newly acquired skills. The most effective way to teach independent living and life skills to a youth is to weave them into everyday living and to incorporate the youth's interests in the transference of these skills. The responsibility for teaching life skills to youth in care should not fall solely on the youth's caseworker. LDSSs and VAs **must** look to foster parent(s), agency staff, and the community for innovative ways to incorporate these skills into the youth's everyday life. Many businesses and organizations want to help youth in foster care but need to be shown what to do or what is needed. Some LDSSs and VAs have partnered with businesses and organizations (such as banks, schools, Chambers of Commerce, grocery stores, or car dealerships) in their communities in order to provide youth with hands-on, real-life skills, while at the same time connecting the youth to essential community-based resources and cultivating supportive adult connections.

During each FASP, workers **must** record and update the Service Plan Window: Outcome and Activity Index to reflect all of the independent living skills programs and services in which the youth, 14 years of age or older, has participated since the last FASP.

V. **Effective Date**

This directive is effective on the date of issuance.

Thomas R. Brooks

Issued By:

Name: Thomas R. Brooks

Title: Deputy Commissioner

Division/Office: Strategic Planning and Policy Development