### Administrative Directive

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| To:              | Commissioners of Social Services  
                              Executive Directors of Voluntary Authorized Agencies |
| Issuing Division/Office: | Strategic Planning and Policy Development |
| Date:            | February 8, 2016            |
| Subject:         | Regulations Prohibiting Discrimination and Harassment in Child Welfare and Youth Programs |
| Suggested Distribution: | Directors of Services  
                              Voluntary Agency Program Directors  
                              Child Welfare Supervisors  
                              Foster Care Supervisors  
                              Adoption Supervisors  
                              Staff Development Coordinators  
                              Youth Bureau Directors  
                              Directors of Detention Programs |
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| Attachments:     | None                         |
I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of provisions in 9 NYCRR §§ 180.5(a)(6), 182-1.5(g)(1), and 182-2.5(g)(1), and in 18 NYCRR §§ 421.3(d), 423.4(m)(7), 441.19(d), 441.24, several of which became effective on November 6, 2013. These regulations prohibit discrimination and harassment by LDSS and VA staff, volunteers, and certified or approved foster parents against applicants for adoption services, families receiving preventive services, prospective foster parents, foster parents and foster children, youth in runaway and homeless youth (RHY) programs, and youth in detention on the basis of race, creed, color, national origin, age, sex, sexual orientation, gender identity or expression, marital status, religion, or disability, in order to promote and maintain a safe environment for children, youth, and families that the Office of Children and Family Services (OCFS) serves.

II. Background

OCFS's mission is to promote the safety, permanency, and well-being of New York's children, families, and communities. To further this commitment, OCFS regulations prohibit discrimination and harassment against applicants for adoption services and preventive services, prospective foster parents, foster parents, foster children, youth in RHY programs, and youth in detention facilities on the basis of race, creed, color, national origin, age, sex, sexual orientation, gender identity or expression, marital status, religion, or disability. The regulations also outline what LDSS and VA staff, volunteers, and certified or approved foster parents must do to promote and maintain a safe environment for the children, youth, and families they serve.

III. Program Implications

Prior to the 2013 amendments to several of the non-discrimination regulations, LDSSs, VAs, RHY programs, and detention programs were already prohibited from discrimination.

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1 18 NYCRR 441.19(d) prohibits discrimination based on ethnicity, handicapping condition, religion, creed or sex. 9 NYCRR 182-2.5(g)(1) includes a general prohibition against discrimination.

2 9 NYCRR §180.5(a)(6) and 18 NYCRR §§ 421.3(d), 423.4(m)(7) and 441.24.
or harassment in the provision of services on the basis of race, creed, color, national origin, age, and sex under existing regulations. The amendments add to the previous list a prohibition against discrimination on the basis of sexual orientation, gender identity, or gender expression in the provision of services.

The following are explanations of some of the terms that are discussed in the regulations and throughout this ADM. This list is not all inclusive, but may be used as a tool when developing policies and procedures.

**Color** - skin tone or complexion.³

**Creed** - a document of faith or system of belief in some principle or idea that a group will determine to follow. Most religions have a creed, or a statement of faith.

**Disability** - is a physical, medical or mental impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or which is demonstrable by medically accepted clinical or laboratory diagnostic techniques.⁴

**Gender Identity or Expression** - means having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.⁵

**Gender Expression** - refers to the manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, and other means.⁶

**Gender Identity** - refers to a person’s internal sense of self as male, female, no gender or another gender.⁷

**National Origin** - is a child’s or parent’s ancestry.⁸

**Race** - Asian, Black or African American, White, Native Hawaiian or other Pacific Islander, and American Indian or Alaska Native.⁹

**Religion** - is a particular system of faith and worship.

**Sex** - anatomical sex: an individual’s gender, male or female, based on the appearance of his or her sexual organs.

**Sexual Orientation** - means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.¹⁰

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⁴ Section 292(21) of the Executive Law.

⁵ 9 NYCRR §§ 180.5(a)(6) and 182-1.5(g)(1), and 18 NYCRR §§ 421.3(d), 423.4(m)(7), and 441.24.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.


¹⁰ Ibid.
IV. Required Action

The regulations cited in this policy directive require the formalization of any existing nondiscrimination and harassment policies and procedures, and possibly the revision of such policies and procedures, by requiring that LDSSs, VAs, RHY programs, and detention programs not engage in or condone discrimination or harassment on the basis of race, creed, color, national origin, sex, religion, sexual orientation, gender identity or expression, marital status or disability against youth in detention facilities, youth in RHY programs, applicants for adoption services, families receiving preventive services, prospective foster parents, foster parents, or children in foster care. The regulations mandate specific steps that must be followed in order to promote and maintain a safe environment for those individuals who receive services under those programs.

Certified or approved foster parents must not engage in or condone discrimination or harassment on the basis of race, creed, color, national origin, age, sex, religion, sexual orientation, gender identity or expression, marital status, or disability against children in foster care. LDSSs and VAs must:

- promote and maintain a safe environment;
- take reasonable steps to prevent discrimination and harassment against youth by other youth;
- promptly investigate incidents of discrimination and harassment by staff, volunteers and youth; and
- take reasonable and appropriate corrective or disciplinary action when such incidents occur.

LDSSs, VAs, RHY programs, and detention programs must develop policies and procedures and/or revise existing ones to include the requirements discussed in this ADM.

V. Effective Date

This policy directive becomes effective immediately upon issuance.

Thomas R. Brooks

Issued By:
Name: Thomas R. Brooks
Title: Deputy Commissioner
Division/Office: Strategic Planning and Policy Development

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11 9 NYCRR §§ 180.5(a)(6), 182-1.5(g)(1), 182-2.5(g)(1) and 18 NYCRR §§ 421.3(d), 423.4(m)(7) 441.19(d) and 441.24.
12 18 NYCRR 441.24
13 Ibid.