



# Office of Children and Family Services

Andrew M. Cuomo  
Governor

52 WASHINGTON STREET  
RENSSELAER, NY 12144

Sheila J. Poole  
Acting Commissioner

## Administrative Directive

<b>Transmittal:</b>	16-OCFS-ADM-09
<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>	May 5, 2016
<b>Subject:</b>	<b>Protocols and Procedures for Locating and Responding to Children and Youth Missing From Foster Care and Non-Foster Care</b>
<b>Suggested Distribution:</b>	Directors of Social Services Child Protective and Preventive Services Supervisors Child Welfare Supervisors Foster Care and Adoption Supervisors Staff Development Coordinators CONNECTIONS Implementation 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 – Tina Cook (716) 847-3145 <a href="mailto:Tina.Cook@ocfs.ny.gov">Tina.Cook@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> Close to Home Oversight – Jewel Brown-Gregory (212) 383-1828 <a href="mailto:Jewel.Brown-Gregory@ocfs.ny.gov">Jewel.Brown-Gregory@ocfs.ny.gov</a>
<b>Attachments:</b>	Attachment A <i>Tips for Locating Children and Youth</i>

	<p>Attachment B <i>Debriefing Tool for Children and Youth Who Have Returned After Being Absent Without Consent, Missing, or Abducted</i>                  Attachment C <i>Desk Aid for Responding to Children and Youth Who Are Absent, Missing, or Abducted From Foster Care or Home</i></p>
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**Filing References:**

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
16-OCFS-ADM-07		18 NYCRR 430.12; 431.8	SSL § 404		Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)
15-OCFS-INF-03			42 U.S.C. § 5779(a)		ACYF-CB-IM-14-03
15-OCFS-ADM-16					ACYF-CB-PI-14-06
10-OCFS-INF-11					ACYF-CB/FYSM-IM-14-1

**I. Purpose**

The purpose of this New York State Office of Children and Family Services (OCFS) Administrative Directive (ADM) is to inform local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of the requirements regarding the response to youth who are absent without consent, missing or abducted<sup>1</sup> from care or home as set forth in the federal Preventing Sex Trafficking and Strengthening Families Act (the Act) [P.L. 113-183] and regulation at 18 NYCRR 431.8, and who are

- in foster care (care and custody or guardianship and custody of LDSS or OCFS);
- in an open child protective services or preventive services case;
- receiving federally funded independent living services;
- under the supervision of the social services district pursuant to a court order; or
- under 21 years of age, discharged to another planned living arrangement with a permanency resource (APPLA), or deemed to have been discharged to APPLA, and under the supervision of the social services district.

<sup>1</sup> The terms “absent” and “missing” refer to children and youth who are voluntarily absent (have run away), are missing (whereabouts are unknown), or have been abducted. The term “absent without consent” refers to a child who has been placed by an authorized agency in a foster care placement, and who disappears, runs away or is otherwise absent voluntarily or involuntarily without the consent of the person(s) or facility in whose care the child has been placed.. See 18 NYCRR 431.8(a).

This ADM provides guidance on locating a child/youth who is absent without consent, missing, or abducted from either foster care or their home, as well as direction to caseworkers for responding once the youth returns to care.

## II. Background

On September 29, 2014, President Obama signed the Act [P.L. 113-183] into law, which amended various provisions of Title IV-E of the Social Security Act. The Act has two primary purposes – to protect and prevent at-risk children and youth from becoming victims of sex trafficking, and to improve the safety, permanency, and well-being outcomes of children, youth, and young adults<sup>2</sup> involved with the child welfare system. For more information on the basic provisions of the Act, please see [15-OCFS-INF-03](#).<sup>3</sup> Additional provisions of the Act are addressed in other policy releases. Amendments made to OCFS regulations in 18 NYCRR to implement P.L. 113-183 were effective on September 1, 2015.<sup>4</sup>

In October 2014, the U.S. Department of Health and Human Services (DHHS), Administration on Children, Youth and Families (ACYF) issued a summary of P.L. 113-183 via the Informational Memorandum, [ACYF-CB-IM-14-03](#).<sup>5</sup> In November 2014, ACYF issued guidance regarding the provision of services for youth who run away from foster care via the Informational Memorandum, [ACYF-CB/FYSM-IM-14-1](#).<sup>6</sup> Both publications provide additional information on the topic of children missing from care.

Prior to the Act, OCFS had in place regulations to address the response to children and youth who were “absent without consent”<sup>7</sup> from foster care placements. This regulation defines “a child absent without consent” as “a child who has been placed by an authorized agency in foster care in a certified foster boarding home, an approved relative foster home, or a licensed foster care facility, and who disappears, runs away or is otherwise absent voluntarily or involuntarily without the consent of the person(s) or facility in whose care the child has been placed.”<sup>8</sup> This regulation identifies certain actions that the LDSS or VA must take when a child is absent without consent from care. For example, the absence must be reported to law enforcement within 24 hours after receiving notice of such absence.

The Act enacted additional requirements for action when a child is absent from care without consent, and for the response when that child returns to care after such an absence.<sup>9</sup> Among those additional requirements are expanded reporting requirements to include children and youth who are not in foster care but have some involvement with the child welfare system (i.e., open child protective cases – both investigatory and Family Assessment Response (FAR) – or open preventive services cases, children receiving federally funded independent living services, children under the supervision of the social services district pursuant to a court order, children not yet 21 years of age who have run away from care but remain in LDSS custody, and children discharged from foster care to

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<sup>2</sup> For the purpose of this ADM, the terms ‘children’ and ‘youth’ are used interchangeably.

<sup>3</sup> [15-OCFS-INF-03 Preventing Sex Trafficking and Strengthening Families Act](#)

<sup>4</sup> NYS Register, Vol. XXXVII, Issue 24 (June 17, 2015)

<sup>5</sup> ACYF-CB-IM-14-03, <http://www.acf.hhs.gov/sites/default/files/cb/im1403.pdf>

<sup>6</sup> ACYF-CB/FYSM-IM-14-1 [http://www.acf.hhs.gov/sites/default/files/fysb/info\\_memo\\_rhy\\_foster\\_care\\_20141104.pdf](http://www.acf.hhs.gov/sites/default/files/fysb/info_memo_rhy_foster_care_20141104.pdf)

<sup>7</sup> 18 NYCRR 431.8

<sup>8</sup> 18 NYCRR 431.8(a)

<sup>9</sup> 18 NYCRR 431.8(b)(3)(i) and 431.8(h)

another planned living arrangement with a permanency resource (APPLA), or those deemed to have been discharged to APPLA, who are under age 21).<sup>10</sup> OCFS made corresponding changes to the regulation dealing with children absent from foster care placement to reflect these provisions of the Act.

Estimates vary on the number of youth who are absent from care. This is partially due to inconsistencies in reporting, but is also due to different standards and definitions among types of care and agencies. There has been increasing attention paid to youth who run away or are otherwise missing from their placements in out-of-home care. This attention is due to a number of factors related to the goal of helping these children and youth develop into successful adults. These factors include, but are not limited to, the following:

- Increasing safety and permanency;
- Lowering the risk for sex trafficking;
- Preventing participation in unhealthy behavior (e.g., consuming alcohol or drugs, smoking);
- Promoting healthy development and well-being.

While responding to youth who are absent without consent, missing, or abducted is pertinent for securing the safety, permanency, and well-being of children, it is also connected to the other critical components of the Act – specifically, preventing and responding to children who are victims of sex trafficking, applying a reasonable and prudent parent standard, and supporting a transition to a successful adulthood. Each of these areas must be addressed when making decisions regarding the response to and support of children who are absent without consent, missing, or abducted.

In developing this policy, OCFS engaged several different stakeholder groups – youth in foster care, foster parents, LDSSs, and VAs – to obtain their perspective on the creation and implementation of procedures and protocols for preventing and reporting children who are absent without consent, missing, or abducted, working with these children upon their return to identify the reasons for their leaving and their experiences while gone, and taking steps to prevent this from occurring again. Focus groups with youth were conducted throughout the state, and the LDSSs and VAs participated in a one-day symposium in which they were able to provide feedback and guidance to OCFS on considerations and strategies for addressing the sometimes confusing concept of children absent from care. A consistent thread throughout all these discussions was the need to incorporate the reasonable and prudent parent standard (the standard)<sup>11</sup> in the issue of youth absent without consent, missing, or abducted. Not only is understanding the need for youth to participate in normative experiences one factor in potentially preventing youth from running away, it is an important perspective to take in determining how to handle an

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<sup>10</sup> 18 NYCRR 430.12(f)(4)(i)(b)

<sup>11</sup> [15-OCFS-ADM-21 Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard](#)

absence within the parameters set forth in statute and regulation. Applying the standard<sup>12</sup> also may assist in stabilizing youth upon their return from an absence.

In moving forward with implementation, OCFS will explore lessons learned from states throughout the country with comprehensive policies for responding to children who are missing from care, as well as seek guidance from ACYF on implementation strategies.

### III. Program Implications

Youth voluntarily leave foster care or home for a variety of reasons and for varying lengths of time. In some cases the youth may be running away from something (e.g., a placement the child dislikes), and in others running to something (e.g., friends, family, unhealthy situations). The youth may feel that his or her decision to leave was the best choice given the youth's circumstances. Unfortunately, adolescents may not always think through the consequences of their actions, nor accurately identify the resources needed to be safe during a runaway episode. Some reasons youth voluntarily leave home include, but are not limited to, familial issues, abuse, neglect, mental health issues, or substance abuse.<sup>13</sup> Generally, the reasons youth leave their foster care placements can be classified into two basic categories: (1) wanting to be with family and friends, and (2) disliking their placement.<sup>14</sup>

In general, youth who have voluntarily left their placement or their home have a greater likelihood than their peers of high-risk behaviors, including unprotected sex, multiple sex partners, and drug use. They also have greater risk of anxiety, depression, suicide, poor health, and low self-esteem.<sup>15</sup>

Runaway and homeless youth are at greater risk of being commercially sexually exploited or trafficked. One in six endangered runaways reported to the National Center for Missing and Exploited Children (NCMEC) in 2014 were likely sex trafficking victims.<sup>16</sup> It is for this reason that both the federal law and OCFS regulations<sup>17</sup> expand the population for whom action must be taken when they are determined to be missing to include not only children in foster care, but also children with some level of involvement in the child welfare system. For this expanded group of children, an LDSS or VA official must report the child's absence to law enforcement and to NCMEC immediately but in no case later than 24 hours after learning that the child is absent without consent, missing, or abducted.

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<sup>12</sup> The reasonable and prudent parent standard is defined as the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child in foster care while at the same time encouraging the emotional and development growth of the child, that a caregiver must use when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities. See 15-OCFS-ADM-15, 18 NYCRR 441.25(a)(i) and 42 USC 675(10)

<sup>13</sup> <http://www.ncsl.org/research/human-services/homeless-and-runaway-youth.aspx>

<sup>14</sup> Ernst, M. & Pergamit, M.R. (2011). *Running Away from Foster Care: Youths' Knowledge and Access of Services*, <http://www.1800runaway.org/wp-content/uploads/2015/05/Part-C-Youth-in-Foster-Care.pdf>

<sup>15</sup> <http://www.ncsl.org/research/human-services/homeless-and-runaway-youth.aspx>

<sup>16</sup> <http://www.missingkids.com/home>

<sup>17</sup> 18 NYCRR 431.8(b)(3)(ii)(a)-(d)

When completing the required reporting for children and youth age 18 and younger who are **not** in LDSS or OCFS custody, the caseworker should make an effort to engage the parent or guardian, where appropriate, in the reporting of the child as missing. If the child still lives at home, the parent or guardian would be among the contacts made by the caseworker during a home visit. Discussions with the parent or guardian of a child who is absent from home without consent should include the importance of the parent or guardian making a Missing Persons report and of working with law enforcement to find the child. However, ultimately, it is the responsibility of the LDSS to see that this report is made within the required timeframes. VAs may complete the reporting requirements and response on behalf of an LDSS. Staff of LDSSs and VAs must remember that they are mandated reporters and must act accordingly if the parent or guardian is uncooperative with these activities where staff has information that there is reasonable cause to suspect abuse or maltreatment.

There are many factors to be considered in determining when the absence of a youth indicates that the youth is missing or has run away: age, developmental level, cognitive or physical limitations, patterns of behavior, medical and behavioral issues. In New York State, the pivotal consideration is whether the youth has the consent of the parent, guardian, foster parent or caregiver to be absent. Particularly for children in their teenage years, it is not always clear to parents, guardians, foster parents and caregivers when that permission has been misused, and when the child is actually missing. Whenever a youth's whereabouts are unknown and the youth cannot be located, immediate steps must be taken to locate the youth. Federal law and state regulation mandate that a series of steps must be followed by parents, guardians, foster parents, and caregivers, as well as LDSS and VA caseworkers and case managers.

#### IV. Required Action

There are specific procedures outlined in both law and regulation which must be followed when determining whether a child is absent without consent, as well as actions that must be taken subsequent to establishing the child's absence.

##### 1. Children in Foster Care

When a child cannot be accounted for, specific actions must be taken by the foster parent or residential care staff and the agency responsible for supervising the child's placement.

- **Absence noted by foster parent or residential care staff:** Foster parents and residential care staff should know where a child is or is expected to be at all times. If the foster parent or staff becomes aware that the child's whereabouts are unknown, expeditious efforts should be taken immediately to locate the child. Tips for locating a child are outlined in Attachment A, *Tips for Locating Children and Youth*. This document should be provided to foster parents and residential care staff.

If the child who has been placed in a foster home or licensed foster care facility is absent, either voluntarily or involuntarily, without the consent of the person(s) or facility in whose care the child has been placed, that child's absence must be reported to the authorized agency responsible for supervising the placement of

the child. This report must be made no later than 24 hours from the time the absence occurs.

The 24 hour reporting deadline does provide for some discretion on the part of the caregiver as to when during the 24 hour period to make the report. It is important to remember that as with so many other aspects of caring for children, decisions are not always black and white. The decision regarding the point during those 24 hours when it is time to report the child as missing depends on several factors:

- The age of the child. If a 3-year old disappears, the absence should be reported immediately. If a 16-year-old with no physical, cognitive, or emotional issues misses curfew, the situation can be dealt with by making diligent efforts to locate the youth and then, if the youth is located within a couple of hours, responding with the logical consequences to such behavior;
- The child's history. If the youth can be considered to be in a high risk category (see below), immediate reporting must occur. If no such history exists, make diligent efforts to locate the youth (see Attachment A: *Tips for Locating Children and Youth*). If you cannot discover the youth's location within a few hours, you should consider the youth to be missing and you must report that absence;
- The child or youth is considered to be in a high risk category. In this case, the report must be made immediately upon noting that the child is gone. Youth in high risk categories include, but are not limited to:
  - i. Those with medical needs requiring regular medication or monitoring;
  - ii. Those with mental health issues which could pose a danger to the youth or others;
  - iii. Those with a cognitive or physical impairment;
  - iv. Children with a history of substance abuse;
  - v. Children with a history of sex trafficking or those for whom previous comprehensive screenings have shown 'high' indicator levels;
  - vi. Children younger than 13 years of age; and
  - vii. Those where abduction is suspected.

In reporting an absence, the foster parent or residential care agency representative should speak directly to a caseworker at the authorized agency. It should not be assumed that leaving a voice mail message is sufficient. If the report is made after working hours, the foster parent or residential care staff should follow the protocol for contacting the on-call caseworker.

Please note that in cases where the youth is not where he or she is expected to be, but the agency or caregiver knows where the youth is (e.g. went for a walk, went across the street to talk to friends, etc.), the youth is not considered to be absent or missing and no report need be made.

- **Action to be taken by LDSS/ACS or VA after the receipt of a report of an absent child:** Upon receiving the call from the foster parent or residential care staff, the LDSS/ACS or VA must determine whether a child is considered high risk. If the child is considered to be high risk, or if abduction is suspected, then the LDSS/ACS and/or VA must immediately report to law enforcement that the child is missing. In all other situations, a report to law enforcement must be made

no later than 24 hours after the LDSS/ACS or VA is notified of the child's absence. In all cases, the LDSS/ACS, VA, and the foster parent(s) must cooperate with local law enforcement in all efforts to locate and return the child.

In addition to notifying law enforcement, the LDSS/ACS or VA must notify NCMEC that the child is absent without consent, missing, or abducted no later than 24 hours after receiving notice of such absence. This notification can be made either by phone at 1-800-THE-LOST (1-800-843-5678) or online at <http://cmfc.missingkids.org/home> by clicking on the "Report a Missing Child Here" tab.<sup>18</sup>

The authorized agency must also make efforts to locate the child, and maintain ongoing efforts for as long as the child remains in the custody of the LDSS/ACS commissioner.

- For juvenile delinquents in Close to Home (CTH) settings, three additional steps are required<sup>19</sup>:
  1. Upon learning that a youth in a CTH placement is absent without consent or missing, a voluntary agency in whose care the youth has been placed by the LDSS/ACS must provide immediate written notice to OCFS, the LDSS/ACS, and Family Court. For any such youth placed with the LDSS/ACS, a social services official must give immediate written notice to both OCFS and Family Court.
  2. A warrant is to be issued for the apprehension and return of any runaway or conditionally released juvenile delinquent, where the youth has violated the terms of the release; and
  3. A photograph and pertinent information is to be provided to law enforcement within 48 hours.
- **VA notification to LDSS:** In all cases where the VA is responsible for reporting the child as absent without consent, the VA must contact the LDSS within 24 hours of such absence to advise them that the child is missing and to inform them of the expeditious efforts being made to locate the child. The VA must also advise the LDSS that the report has been made to NCMEC.
- **Notification of Parents:** The authorized agency responsible for the placement of the child must inform the child's parents within 24 hours of the determination that the child is missing. Such notice is not required if the parental rights have been terminated, the child has been surrendered for adoption, or the parents cannot be located.
- **Ongoing Efforts to Locate the Child:** The case manager or case planning supervisor must ensure that diligent efforts to locate the child are made within 72 hours after the report that the youth is absent without consent or missing. The following people must be contacted<sup>20</sup> as part of these efforts

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<sup>18</sup> Please note that the NCMEC website requires use of Internet Explorer 9.0 or higher, Chrome, or Firefox.

<sup>19</sup> SSL § 404(13)(d) and (e)

<sup>20</sup> 18 NYCRR 431.8(c)

- Members of the child's foster family household or the facility in which the child was placed;
- Members of the child's biological family and known members of the child's extended family;
- Child's legal guardian, if applicable;
- Child's school principal, teachers, and other school staff;
- Close friends of the child;
- Adults known to be working with the child in recreational or educational activities;
- Professionals involved with the child's development, including but not limited to, physicians and other medical professionals, clinical social workers, psychologists, etc.; and
- Administrator or coordinator(s) of the county's runaway and homeless youth services.

In addition to these mandated contacts, it is recommended that the case manager or case planning supervisor also consider contacting the following as part of the efforts to locate the child:

- Parents of the close friends of the youth;
- Local jails or detention facilities, if age-appropriate.
- A former foster care placement

These diligent efforts must continue within each 30-day period until the youth either returns, or is discharged from care<sup>21</sup>.

- **Additional Actions:**

- An updated photo of the child may be shared with law enforcement and/or NCMEC if so requested. As mentioned above, for youth in Close to Home placements, the photo must be shared with law enforcement; it is optional of all other youth. If it is suspected that the child may have been abducted, law enforcement may activate an AMBER alert. Providing an updated photo allows an immediate wide-range distribution and description of the impacted child. If the child is missing, an updated photo is a useful tool in assisting in locating the child.<sup>22</sup>
- Scanning the social media accounts of the youth, as well as those of the youth's friends and family, can provide clues to the youth's location.
- If an LDSS receives a request from a criminal justice agency, as defined in 16-OCFS-ADM-07, which is investigating the absence of a child or youth, the district must provide information from the records of any pertinent indicated CPS report or any CPS report that is under investigation at the time of the request under certain conditions. The following conditions must be present for the LDSS to share such information:
  - the criminal justice agency is conducting an investigation of a missing child;
  - the criminal justice agency has reason to suspect that the missing child's parent, guardian or other person legally responsible for the

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<sup>21</sup> 18 NYCRR 431.8(c)(2)

<sup>22</sup> See [10-OCFS-INF-11 Photos of Youth in Care](#)

- child is or may be the subject of a report, or the missing child or the missing child's sibling is or may be another person named in a report of child abuse or maltreatment; and
- any such CPS information is or may be needed to further the investigation to find the missing child.
- **Please Note:** neither unfounded CPS reports nor any Family Assessment Response (FAR) records may be shared. The local district may also provide any ancillary information it may have about the family that pertains to those records but is not included in the records.<sup>23</sup>
- Where Family Court approved the foster care placement, the LDSS commissioner or designee must provide written notice that the child is absent without consent, missing, or abducted to the court that approved the petition within 48 hours of the reported absence.

In all cases, the LDSS, VA, and the foster parent(s) must cooperate with local law enforcement in all efforts to locate and return the child

- **Justice Center:** There is no statutory requirement that a youth's absence from a residential facility must always be reported to the Justice Center. Such a report must only be made if the youth's absence necessarily puts the youth at risk of harm, or if the absence is due to a lapse in staff supervision.
- **Documentation:** Documentation of all activities related to a child's absence must be made in CONNECTIONS. Once the screen to report data on missing and absent youth has been developed and released (expected in late May 2016), the information will be entered on that screen. Until such time as the system changes have been implemented, all documentation must be made in progress notes.
  - Within seven calendar days of the child's absence without consent, the absence must be recorded in the Activities window in CONNECTIONS<sup>24</sup>.
  - Within 30 days the absence must be recorded in the case record in the Family Assessment and Service Plan (FASP).
  - Progress notes should include, at minimum, the names of the persons contacted, dates of those contacts, and information pertaining to the child's absence.

### When the Child Returns

When the child who was missing returns, the Act and corresponding OCFS regulations<sup>25</sup> require that specific actions are taken, including determining the reasons for the child's absence and identifying the steps that can be taken to address those reasons in both the current placement and any future placements. The child must also be screened to determine if he or she is a victim of sex trafficking.

<sup>23</sup> See [16-OCFS-ADM-07, Sharing Child Protective Services Information with Law Enforcement When a Child Is Missing](#)

<sup>24</sup> Because system changes have incorporated CCRS into CONNECTIONS, this satisfies the requirement in 18 NYCRR 431.8(b)(6) of reporting the absence in the Child Care Review Service (CCRS).

<sup>25</sup> 18 NYCRR 431.8(h)

Foster parents and caseworkers should apply the reasonable and prudent parent standard when working with the returning child. Applying the standard would include, but not be limited to, such things as developing agreements with the child that encourage communication, a balance between responsibilities and privileges, and the ability to participate in normative experiences, such as attending parties, having a part-time job, or taking a walk around the block.

The following steps must occur when the child or youth is located and/or returns home or to the foster care placement:

- **Welcome the child back:** First and foremost, the child/youth should be welcomed back. The caseworker or foster parent should let the child/youth know that he or she was missed and that the foster parent or caseworker was worried and concerned for the youth's safety. The child should be welcomed back with no judgment.
- **Meet the child's immediate physical needs:** The caseworker or foster parent should attend to the child's physical needs: e.g., a meal, a shower, a change of clothes, and an opportunity to rest in a safe place. In addition, any immediate health or mental health needs must be addressed.
- **Notify LDSS, VA, and any other agency involved with the youth.**
- **Cancel reports to law enforcement and NCMEC:** If the child had been reported missing to law enforcement and to NCMEC, both entities should be notified that the child has returned.
- **Identify services the child may need:** Depending on the length of time the child was absent or missing, and the experiences he or she had, rehabilitative services may be needed. These may include: psychological counseling, medical services, drug and alcohol abuse treatment, and remedial educational services. Appropriate referrals for services must be made and documented. In all cases, an assessment must be done of the need of the child for rehabilitative services. If a determination is made that any such services are needed by the child, referrals to providers of such services must be made and such referrals must be documented in the child's case record.
- **Discussion of consequences, if appropriate:** Depending on the age and developmental level of the child, as well as the circumstances of the child's absence, the foster parent or caseworker may need to discuss the consequences of the child's behavior. This is consistent with the reasonable and prudent parent standard.<sup>26</sup> If the child's absence was voluntary, such as leaving home without permission to attend a party, it is appropriate to discuss the consequences of unacceptable behavior, e.g., grounding, withdrawal of permission to participate in a social activity, etc.

It is also important to discuss appropriate action(s) the child should take in the future if circumstances arise that could result in his or her arriving home late (e.g.,

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<sup>26</sup>[15-OCFS-ADM-21 Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care – Applying a Reasonable and Prudent Parent Standard](#)

missed the bus home from work). These actions include such things as phoning or texting the foster parent or caseworker.

- **Identifying reasons for leaving and experiences during the absence:** Once the child's immediate needs have been addressed and he or she has had a chance to resume "normalcy," the caseworker must pursue what happened to the child while he or she was absent or missing. Consistent with the reasonable and prudent parenting standard, approach the issue from the standpoint of concern about the child, e.g., "What happened to make you want to leave?" Youth may leave home or placement without consent for a variety of reasons. These could range from changes to the youth's permanency options or pending court dates, to substance abuse, a youth feeling unsafe in their current environment, or traumatic bonding with an abuser/trafficker. The reasons could be as simple as the youth is concerned about his or her parents or siblings or just be the fact that the youth just doesn't want to be in care. Perhaps the behavior is adolescent thrill-seeking or boundary-pushing. The child should not be forced to talk. The caseworker or foster parent should engage the child in discussion about the absence and provide a supportive environment to encourage the child to discuss his or her feelings.

Attachment B, *Debriefing Tool for Children and Youth Who Have Returned After Being Absent Without Consent, Missing, or Abducted* can be used to determine the child's experiences while absent without consent or missing, and to decide if further medical, mental health or other treatment is necessary. It is not required to be used, but may be helpful in obtaining the information necessary for inclusion in CONNECTIONS.

- **Safety planning:** The caseworker/case manager, foster parent or residential care staff, and the child should discuss and work together to create a safety plan for the child. This plan should address the reasons for the youth's absence and what supports and actions are needed in both the youth's current placement and any future placements to prevent the youth from repeating the behavior.
- **Screening for sex trafficking:** Once the child is stabilized, but no later than five days after his or her return to care, the caseworker or case manager must conduct a screening to determine if the child was a victim of sex trafficking while absent. Please see [15-OCFS-ADM-16 Requirements to Identify, Document, Report, and Provide Services to Child Sex Trafficking Victims<sup>27</sup>](#) for the appropriate procedure on how to screen and respond to a child who is determined to be a victim or at risk of sex trafficking.
- **Documentation:** LDSSs and VAs must document in CONNECTIONS all activities regarding the determination of whether the child is absent from care without consent or missing, and the reporting of the child's absence to law enforcement and NCMEC. Progress notes in the case record should be used for this purpose until changes specific to the documentation of children missing without consent have been incorporated into the system.

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<sup>27</sup> [15-OCFS-ADM-16 Requirements to Identify, Document, Report, and Provide Services to Child Sex Trafficking Victims](#)

## 2. Children Who Are Not in Foster Care

In addition to those children absent from foster care, the Act and corresponding OCFS regulations require specific actions be taken in the event of a child being absent without consent, missing, or abducted involving children with an open child protective or preventive services case (including Advocates preventive-only cases in New York City),<sup>28</sup> those who are receiving Chafee services, or who are under the supervision of the LDSS either pursuant to a court order or due to discharge to APPLA with a permanency resource, or deemed to be discharged to APPLA. Such children are also part of the population who are required to be reported to law enforcement and NCMEC when they are missing or abducted.

For youth not in a foster care placement, the caseworker could learn that the child is missing or abducted in several ways. In some cases, the caseworker may have been informed by the parents during a home visit that they haven't heard from the child in days, or someone may have called the LDSS to report that they are concerned about the child because he or she has not been home in days. However the information comes to the caseworker, it must be acted upon within 24 hours of its being reported as being missing or abducted.

The LDSS/VA caseworker must report the child to law enforcement as missing or abducted, for entry into the National Crime Information Center (NCIC) database, and must also report to NCMEC. Whenever possible, the caseworker should work with the parent/guardian in competing this required reporting. This report must be made in no case later than 24 hours of receiving such information.

LDSS and VA staff must remember that they are mandated reporters and must act accordingly if they have reasonable cause to suspect that the parent's refusal to report the child as missing constitutes abuse or maltreatment.

## 3. Youth Determined to Be Absent From Program Versus Those Absent Without Consent, Missing, or Abducted

It can be confusing for foster parents and for residential staff to differentiate between those instances when a child is absent from program, and those when the child is absent without consent or missing. How does a program absence differ from being absent from care? A child in a foster boarding home or residential care facility whose whereabouts are known, but who is not where he or she is expected to be, is considered to be absent from program. In these instances:

- The child is one for whom such activities and behavior is age and developmentally appropriate from the perspective of the reasonable and prudent parent standard<sup>29</sup>;
- The child's safety is not at risk;
- Foster parent or staff knows the location of the child;
- The child's absence is of a known duration; and

<sup>28</sup> The term "Advocates preventive-only cases" refers to the Advocates for Children of New York court settlement. See 05-OCFS-ADM-02, p. 49,

<sup>29</sup> [15-OCFS-ADM-21 Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard](#)

- The agency or foster parent approves of the child's location (i.e., there is implied consent).

Examples of a program absence include, but are not limited to, such things as the child who is across the street from the home or facility talking to friends, the youth who goes outside to walk around the grounds to calm down, or the youth who missed the bus back from his or her part-time job. In these situations, the child is not where he or she is expected to be, but is either within the view of the foster parent or staff, or the foster parent or staff member is aware of the youth's location. Because the youth's whereabouts are known and acceptable to staff, there is consent that satisfies the regulatory requirement – even when the absence is not scheduled (i.e., taking a walk, taking a later bus, etc.). The decision as to whether the foster parent or agency staff can assume there is implied consent is one that can be made within the parameters of the application of the reasonable and prudent parent standard<sup>30</sup> (i.e., it is one that is based on the individual youth).

In those instances where there is implied or actual consent, and the decision has been made based on the application of the reasonable and prudent parent standard, the absence is not reportable to law enforcement and NCMEC, nor does it need to be reported to the authorized agency responsible for the placement of the youth. However, if the child does not return within the expected period of time and diligent efforts are unable to locate the child, or if there is reason to suspect the child's safety may be at risk, then that child is considered to be missing and the reporting requirements set forth earlier in this release must begin.

## V. Systems Implications

Changes are being made to the Investigative (INV), Family Assessment Response (FAR), and Family Services Stages (FSS) to incorporate documentation of a child's absence(s). The "Missing Child" screen is being developed in the Activities window of CONNECTIONS. It is anticipated that it will be accessed through the Workload, and has an anticipated release in late May 2016. Further information on the changes will be released when the build is completed.

Until the system changes have been released, LDSSs and VAs must document in Progress Notes in CONNECTIONS, the following information for youth in foster care who are absent without consent, missing or abducted:

- When the child/youth is initially determined to be missing:
  - Date the child was determined to be missing, absent without consent or abducted;
  - Date absence was reported to law enforcement, including the report number assigned by the law enforcement agency, or information that the law enforcement agency refused to accept the report;
  - Date reported to NCMEC;
  - Names of the persons' contacted in effort to locate missing child;
  - Dates of those contacts.
- When the child/youth returns:
  - Date of return
  - Actions taken upon return which could include but are not limited to:

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<sup>30</sup> 15-OCFS-ADM-21 Attachment B *Applying the Reasonable and Prudent Parent Standard: Caregiver Considerations*.

- Meeting the youth's immediate needs
- Safety planning
- Screening for sex trafficking (see [15-OCFS-ADM-16](#))
- Medical care, if necessary
- Mental health counseling, if indicated
- Drug/alcohol abuse treatment, if indicated
- Information pertaining to the child's absence, including, but not limited to:
  - Primary factors contributing to the child's running away or otherwise being absent without consent
  - Response to the child's absence, in both the current and future foster care placements
  - Child's experiences while missing

The only exception to this systems requirement is for the Advocates preventive-only cases in New York City. For these cases, no entry is to be made in CONNECTIONS. All information is documented offline and kept in the child's case file. Summary data only is to be provided upon request to OCFS.

## VI. Effective Date

This directive is effective immediately.

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### Issued By:

Name: Thomas R. Brooks

Title: Deputy Commissioner

Division/Office: Strategic Planning and Policy Development