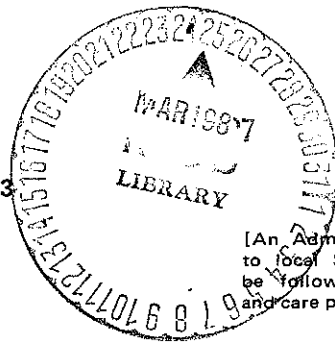


NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



CESAR A. PERALES
 Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 87 ADM-9
 [Family & Children Services]

TO: Commissioners of Social Services
 Directors of Authorized Agencies

SUBJECT: Requirement for Acknowledgement of Twelve
 Months' Preference in Foster Care Agreements

DATE: March 19, 1987

SUGGESTED DISTRIBUTION: Child Welfare Executives and Supervisory Staff
 Foster Care Staff
 Staff Development Coordinators

RECEIVED
 DIVISION
 OF SOCIAL SERVICES
 ALBANY, N.Y.
 MAR 22 1987

CONTACT PERSON: All inquiries concerning this release should be directed to Fred Cantlo, Regional Director, Metropolitan Regional Office, (212) 488-3485; John O'Connor, Regional Director, Eastern Regional Office, (518) 473-1095; Karen Schimke, Regional Director, Buffalo Regional Office, (716) 847-3145; Frank Petrus, Regional Director, Western Regional Office, (716) 238-8201.

I. Purpose

The purpose of this release is to inform local social services districts and authorized agencies of the provision of Chapter 765 of the Laws of 1986 which pertains to the agreement between an authorized agency and foster parents. A statement must be included in each such agreement indicating the time after which foster parents have preference to adopt a child.

II. Background

Section 374 of the Social Services Law provides the authority for an authorized agency to place out and board out children. Subdivision 1-a of said section

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		421.13(a)(1)			Deputy Commissioner's letter (3/86) on Chapter 141 of Laws of 1985.
		421.19(b)(1)	374		
		421.19(c)	374 1-a		
		443.3(s)(1)	383		
		444.5(c)	384		
		444.5(d)	392		

requires that any agreement between the authorized agency and the foster parents with whom the child is boarded include the following statement: "It is duly acknowledged by the parties hereto that pursuant to the law of the State of New York, a foster parent shall have preference in any proceedings to adopt the child subject to this agreement upon such child having been in the custody of such foster parent for a period in excess of twelve months." Prior to the enactment of Chapter 765 of the Laws of 1986, subdivision 1-a of Section 374 of the Social Services Law directed that the agreement indicate such preference be given to foster parents after a child had been in custody for a period in excess of 18 months.

For purposes of clarification, it should be noted that although subdivision 1-a of Section 374 of the Social Services Law describes a foster child as being in the "custody" of the foster parent, Sections 371.19 and 383 of the Social Services Law more accurately describe a foster child as being in the care of the foster parent and in the custody of the local commissioner or authorized agency. Section 371.19 provides that "Foster parent shall mean any person with whom a child, in the care, custody or guardianship of an authorized agency, is placed for temporary or long-term care, and Foster child shall mean any person, in the care, custody or guardianship of an authorized agency, who is placed for temporary or long-term care." Section 383.3 states, in part, that "Foster parents having had continuous care of a child, for more than twelve months, through an authorized agency, shall be permitted as a matter of right, as an interested party to intervene in any proceeding involving the custody of the child." In view of said statutes, further discussions will refer to the foster child as being in the care of the foster parent.

Section 444.5(c) of the Department's regulations specifies the content of the agreement between the authorized agency and the foster parents, and mandates that the agreement be executed by the foster parents. Subdivision (d) of Section 444.5 further requires that the agreement include a statement of the statutory preference granted to the foster parents.

Chapter 141 of the Laws of 1985 amended Sections 383, 384, and 392 of the Social Services Law to change, from 18 months to 12 months, the period of time a child must be in the foster parents' care before the foster

parents shall be given preference for adoption. Said Chapter also changed to 12 months the time a child must be in the foster parents' care before the foster parents are permitted to intervene in or initiate a family court review as a matter of right.

In order to provide conformity with these changes in the law, the Legislature enacted Chapter 765 of the Laws of 1986 which amended subdivision 1-a of Section 374 of the Social Services Law to mandate that the change from 18 months to 12 months be indicated in the required agreement between an authorized agency and foster parents.

III. Program Implications

In March of this year, a letter explaining the provisions of Chapter 141 of the Laws of 1985 was sent to all local districts and voluntary agencies along with the amended regulations to comply with the changes in the law. As a result, some local districts and voluntary agencies already may have modified their agreements with foster parents to reflect the changes in the law. However, for those agencies who have not done so, Section 374 of the Social Services Law now mandates that the following statement be included in such agreements: "It is duly acknowledged by the parties hereto that pursuant to the law of the State of New York, a foster parent shall have preference in any proceedings to adopt the child subject to this agreement upon such child having been in the custody of such foster parent for a period in excess of twelve months." Training and/or informational materials disseminated to prospective, certified or approved foster parents which reference preference to adopt, should be revised to reflect the change in time frame.

IV. Required Action

Local social services districts and voluntary foster care agencies must now include the statement required by Chapter 765 of the Laws of 1986 in all new agreements with foster parents.

The statutory change only applies to prospective agreements. Nonetheless, it may be advantageous to the local social services districts and voluntary foster care agencies to inform foster parents with whom they have an existing agreement about the change in the preference time period. Several options are available to accomplish such notification including executing a formal amendment to the agreement containing the change, or providing the information, in writing, to the foster parents by mail or during the annual recertification or reapproval of the foster home.

V. Effective Date

This directive is effective March ~~4~~²⁰, 1987, retroactive to ~~March 20~~^{Aug 3}, 1987, the effective date of Chapter 765 of the Laws of 1986. The legislation is attached for your information.



Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

STATE OF NEW YORK

3725--A

1985-1986 Regular Sessions

IN SENATE

March 5, 1985

Introduced by Sen. GOODHUE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to the length of foster custody necessary to confer an adoption preference on the foster parent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Subdivision one-a of section three hundred seventy-four of
2 the social services law, as amended by chapter fifteen of the laws of
3 nineteen hundred eighty-one, is amended to read as follows:
4 1-a. In any agreement between an authorized agency and foster
5 parents with whom a child or children are to be placed or boarded, there
6 shall be contained therein the following language: "It is duly ac-
7 knowledged by the parties hereto that pursuant to the law of the state
8 of New York, a foster parent shall have preference in any proceedings to
9 adopt the child subject to this agreement upon such child having been in
10 the custody of such foster parent for a period in excess of [eighteen]
11 twelve months".
12 § 2. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect from and after August third, nineteen
14 hundred eighty-six.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

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