



Office of Children and Family Services

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Administrative Directive

Transmittal:	16-OCFS-ADM-02
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
Contact Person(s):	Any 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 Dana.Whitcomb@ocfs.ny.gov Rochester Regional Office-Karen Buck (585) 238-8201 Karen.Buck@ocfs.ny.gov Syracuse Regional Office-Sara Simon (315) 423-1200 Sara.Simon@ocfs.ny.gov Albany Regional Office-Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.ny.gov Spring Valley Regional Office-Yolanda Désarmé (845) 708-2498 Yolanda.Desarme@ocfs.ny.gov New York City Regional Office-Raymond Toomer (212) 383-1788 Raymond.Toomer@ocfs.ny.gov Native American Services-Heather LaForme (716) 847-3123 Heather.LaForme@ocfs.ny.gov
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
09-OCFS-INF-06 09-OCFS-ADM-07 11-OCFS-INF-01 11-OCFS-INF-05 15-OCFS-ADM-05 15-OCFS-ADM-23		9 NYCRR §§ 180.5(a)(6), 182-1.5(g)(1), 182-2.5(g)(1) 18 NYCRR §§ 421.3(d), 423.4(m)(7), 441.19(d), 441.24	Executive Law §292(8), (21) and (27)		

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) and 441.24, several of which became effective on November 6, 2013.¹ 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.²

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

¹18 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.

²9 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

³ [15-OCFS-ADM-05](#). *Multiethnic Placement Act of 1994 as Amended by the Interethnic Adoption Provisions of 1996*.

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 [15-OCFS-ADM-05](#). *Multiethnic Placement Act of 1994 as Amended by the Interethnic Adoption Provisions of 1996* and Section 292(8) of the Executive Law.

⁹ *Ibid.*

¹⁰ Section 292(27) of the Executive Law.

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.¹¹ 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.¹²

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.¹³

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:

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Title: Deputy Commissioner

Division/Office: Strategic Planning and Policy Development

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.