



Office of Children and Family Services

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Administrative Directive

Transmittal:	18-OCFS-ADM-19
To:	Runaway and Homeless Youth Programs
Issuing Division/Office:	Child Welfare and Community Services, Bureau of Vulnerable Populations
Date:	August 24, 2018
Subject:	Responsibility of Runaway and Homeless Youth Crisis Services Programs Regarding Destitute Children and Youth Formerly in Foster Care
Suggested Distribution:	Municipal Youth Bureaus, Local Department of Social Service (LDSS) Directors of Services
Contact Person(s):	Bureau of Vulnerable Populations: (518) 474-4110 RHY@ocfs.ny.gov
Attachments:	Appendix A: <i>Reentry Into Foster Care: What Runaway and Homeless Programs Need to Know</i> Appendix B: Reentry to Foster Care Pamphlet Appendix C: <i>Tool for RHY Programs to Identify Youth Formerly in Foster Care and Destitute Children</i>

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law and Other Legal Ref.	Manual Ref.	Misc. Ref.
14-OCFS-LCM-16 12-OCFS-ADM-08 11-OCFS-ADM-02		9 NYCRR §§ 182-1.5 (p) and (g); 182-2.5 (p) and (g)	L. 2017, ch.56, p. M; SSL §§ 358-a, 371, 383-b, 384-a and 384-b; FCA § 1012, FCA Articles 10-B and 10-C; and Exec. Law §§ 532-b (1)g and (h) and 532-d(7) and (8)		

I. Purpose

The purpose of this Administrative Directive (ADM) is to direct runaway and homeless youth (RHY) programs to take specific actions when youth who are former foster care recipients or who may meet the definition of destitute child, as this term is defined in section 1092 of the Family Court Act (FCA), present at RHY programs.

II. Background

RHY programs serve youth with varying needs and diverse life experiences. It is expected that some youth served by RHY crisis services programs (crisis programs) and transitional independent living support programs (TILPs) may have previously been in foster care and may be eligible to reenter foster care, while others may meet the definition of a destitute child. Recent statutory changes¹ to the Executive Law require that RHY programs take certain actions when youth present at such programs who may have formerly been in foster care or who may meet the definition of destitute child.

Part M of Chapter 56 of the Laws of 2017 made several changes to the Executive Law to include adding new responsibilities for RHY programs when youth present at such programs who may have been formerly in foster care, or who may meet the definition of destitute child.

RHY programs must now provide information to eligible youth about their ability to reenter foster care in accordance with Article 10-B of the FCA, and in appropriate cases refer such youth who may be interested in reentering foster care to the applicable local department of social services (LDSS).² This ADM outlines that process for RHY programs.

Further, RHY programs must³ now contact the appropriate LDSS if it is believed that a youth may be a destitute child. This ADM also provides guidance to RHY programs on how to accurately identify a youth who may be a destitute child.

By making referrals to the applicable LDSSs for youth who are interested in reentering foster care, or contacting the appropriate LDSS regarding a potentially destitute child, RHY programs may expand the service options and benefits available to eligible youth so their health, safety, and well-being can be fully supported.

III. Program Implications

A. Reentry to Foster Care

Older adolescents aging out of foster care often need services and supports to make a successful transition from foster care to self-sufficiency. Youth under age 21 who voluntarily choose to leave foster care at age 18 or older, or who were discharged at age 18 or older to permanency and that permanency arrangement was disrupted or dissolved, may find themselves homeless. While there is a trial discharge status available to youth leaving foster care, which allows them to remain in the custody of the LDSS while they adjust to living independently for at least six months, youth are sometimes focused on becoming independent of the child welfare system and do not take advantage of the trial discharge

¹ Part M of Chapter 56 of the Laws of 2017.

² Additional detail is available in Exec. Law §§ 532-b (1)(h) and 532-d(8).

³ §§532-b(1)(g) and 532-d (7).

opportunity. If a youth leaves foster care at age 18 or older and subsequently becomes homeless, the youth may seek services from an RHY program.

In some circumstances, a youth or an LDSS, upon consent of the youth, may make a motion, which is a formal legal request to the court, in writing, in accordance with Article 10-B of the FCA, for the youth to reenter foster care.⁴ These circumstances include when the youth, who is at least 18 years of age but not yet 21 years of age,

- was discharged from foster care on or after his or her 18th birthday due to a failure to consent to a continuation of care (commonly referred to as voluntarily leaving or “signing out” of care); OR
- was discharged from foster care on or after his or her 18th birthday to permanency (returned home, went to relative’s care, custody or guardianship, or was adopted) and that permanency arrangement was disrupted or dissolved;
AND
- no more than 24 months has elapsed from the date of the first final discharge from care on or after his or her 18th birthday.

In addition, the youth, or the LDSS upon the consent of the youth, must show that the youth

- has no reasonable alternative to foster care;
- consents to enrollment and attendance in an appropriate educational or vocational program, unless the circumstances of the youth indicate that is not an appropriate plan;
- consents to reenter care; AND⁵
- that reentering foster care is in the best interest of the youth.

Appendix A, *Reentry Into Foster Care: What Runaway and Homeless Programs Need to Know*, is included with this policy to assist RHY programs with this identification.

When an RHY program reasonably believes a youth meets the criteria described above for reentry into foster care, program staff must⁶ provide information to the youth about his or her ability to reenter foster care, and discuss the option to reenter care with the youth. RHY program staff must refer such youth, if he or she is interested, to the applicable LDSS, which is the LDSS that previously had care and custody or custody and guardianship of the youth. Appendix B, *Reentry to Foster Care Pamphlet* is provided so RHY program staff may provide educational materials to youth on this subject.

B. Destitute Child

A destitute child is defined⁷ as a child who is under the age of 18 years who is in a state of want or suffering due to lack of sufficient food, clothing, shelter, or medical or surgical care, and who does not fit within the definition of an “abused child” or a “neglected child,”⁸ and is without any parent or caretaker available to sufficiently care for him or her, due to

- (i) the death of a parent or caretaker; OR

⁴ FCA § 1091, 11-OCFS-ADM-02.

⁵ FCA § 1091(a).

⁶ Executive Law § 532-b(1)(h).

⁷ FCA § 1092(a).

⁸ FCA § 1012(e) and (f).

- (ii) the incapacity or debilitation of a parent or caretaker where such incapacity or debilitation would prevent such parent or caretaker from being able to knowingly and voluntarily enter into a written agreement to transfer the care and custody of the child in accordance with Social Service Law (SSL) §§358-a or 384-a; OR
- (iii) the inability of the LDSS to locate any parent or caretaker, after making reasonable efforts to do so; OR
- (iv) a parent or caretaker being physically located outside of the state of New York, and the LDSS is unable to return the child to such parent or caretaker despite making reasonable efforts to do so, unless the lack of such efforts is or was appropriate under the circumstances.

Appendix C: *Tool for RHY Programs to Identify Youth Formerly in Foster Care and Destitute Children* is included with this policy to assist RHY programs with this identification.

Destitute children may contact an RHY program for services.

When an RHY program reasonably believes a youth meets the definition of a destitute child as defined under §1092 of the FCA, program staff must contact the appropriate LDSS to notify the department of the youth and his or her needs, regardless of whether the youth consents to such a referral. The appropriate LDSS is the LDSS in which the program is located. Once notified, the LDSS will follow the procedures outlined in [12-OCFS-ADM-08](#).

IV. Required Action

As described above, RHY programs have specific responsibilities regarding youth who are eligible for, and interested in, reentering foster care, or who are believed to be destitute children as defined under §1092 of the FCA, see above. A listing of all LDSSs with their contact information may be found at: <https://ocfs.ny.gov/main/localdss.asp>. The RHY program must keep documentation of all notifications in the youth's case file.

A. Reentry to Foster Care

When a youth under 21 years of age in an RHY crisis services program indicates that he or she was previously in foster care and voluntarily left or was discharged from foster care on or after his or her 18th birthday, staff in the RHY program must provide information to the youth about his or her ability to reenter foster care.⁹ Appendix B, *Reentry to Foster Care Pamphlet* is provided for this purpose.

If the youth indicates an interest in reentering foster care, RHY staff must refer the youth to the applicable LDSS. The applicable LDSS is the district in which the youth was placed in foster care, i.e., the LDSS that previously had care and custody or custody and guardianship of the youth. That information would have to be obtained from the youth. If a youth does not know which LDSS they were previously in the care, custody, or guardianship of, RHY program staff may inquire with the LDSS in the locality where they are located on the youth's behalf, if the youth provides written consent for such contact to be made.¹⁰ All contacts made on behalf of a youth in an RHY program must be recorded in the youth's case record.¹¹

⁹ 9 NYCRR 182-1.5(q).

¹⁰ 9 NYCRR 182-1.6(b).

¹¹ 9 NYCRR 182-1.5(n).

B. Destitute Child

If the RHY staff have reason to believe that a youth who has come to the program for services is a destitute child, as defined under §1092 of the FCA (see above), the RHY program must contact the appropriate LDSS on behalf of the child.¹² The appropriate LDSS is the LDSS in which the RHY program is located. Such contact is required to be made regardless of whether the youth consents to such contact.

All contacts made on behalf of youth in the RHY program must be recorded in the youth's case record.¹³ RHY programs are encouraged to inform youth of the statutory requirement to contact the LDSS before such contact is made. This practice supports a relationship built on engagement and is another opportunity for RHY programs to communicate with youth regarding the options and services that they may be entitled to receive. Services and benefits managed by the LDSS can be a significant asset to young people as they develop individualized service plans with RHY program support.

V. Effective Date

This is effective immediately.

/s/ Laura M. Velez

Issued By:

Name: Laura M. Velez

Title: Deputy Commissioner

Division/Office: Child Welfare and Community Services

¹² 9 NYCRR 182-1.5(p).

¹³ 9 NYCRR 182-1.5(n).