



Office of Children and Family Services

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Administrative Directive

Transmittal:	18-OCFS-ADM-19
To:	Runaway and Homeless Youth Programs Runaway and Homeless Youth Coordinators
Issuing Division/Office:	Division of Youth Development and Partnerships for Success
Date:	August 24, 2018; Revised March 24, 2022
Subject:	Responsibility of Residential Runaway and Homeless Youth Programs Regarding Destitute Children and Youth Formerly in Foster Care
Suggested Distribution:	Municipal Youth Bureaus Local Department of Social Services (LDSS) Directors of Services
Contact Person(s):	RHY@ocfs.ny.gov or 518-474-4110
Attachments:	Appendix A: <i>Reentry Into Foster Care: What Runaway and Homeless Youth Programs Need to Know</i> Appendix B: <i>Were You in Foster Care?</i> (Pub. 5193) 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 & Other Legal Ref.	Manual Ref.	Misc. Ref.
14-OCFS- LCM-16 12-OCFS- ADM-08 11-OCFS- ADM-02 22-OCFS- ADM-04		9 NYCRR §§ 182-1.5 (p) and (g); 182-2.5 (p) and (g)	L. 2021 Chapter 798, 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 serving youth who are former foster care recipients or who may meet the definition of destitute child, as this term is defined in §1092 of the Family Court Act (FCA), present at RHY programs.

This ADM was revised in March 2022 to align with updated requirements regarding youth reentry to foster care as articulated in 22-OCFS-ADM-04 and Chapter 798 of the Laws of 2021.

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.

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 may meet the definition of a destitute child.

RHY programs must provide information to youth potentially eligible to reenter foster care about their ability to do so in accordance with Article 10-B of the Family Court Act (FCA) and, when the youth consents, refer such youth to the applicable local department of social services (LDSS).¹ This ADM outlines that process for RHY programs.

Further, RHY programs must contact the appropriate LDSS if it is believed that a youth may be a destitute child.² 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 Into 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 16 or older to permanency and that permanency arrangement was disrupted or dissolved, may find themselves homeless or at risk of homelessness. While there is a trial discharge status available to some 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 sometimes prefer to live independently outside of the child welfare system. As a result, they miss the advantages a trial discharge opportunity can afford. In these instances, youth may seek services from an RHY program. Additionally, in some instances, youth who leave OCFS custody may also seek services from an RHY program.

In some circumstances a youth, or an LDSS with consent from the youth, may make a motion in accordance with Article 10-B of the FCA.³ These circumstances include when the youth who is at least 18 years of age but not yet 21 years of age:

1. was discharged from foster care on or after their 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

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

² §§532-b(1)(g) and 532-d (7).

³ FCA § 1091, 11-OCFS-ADM-02.

was discharged from foster care on or after their 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 have passed from the date of the first final discharge from care on or after the youth's their 18th birthday; OR

2. was discharged from foster care on or after their 16th birthday, and prior to turning 21 years old, the youth is homeless or is at-risk of becoming homeless.

In addition, the youth, or the LDSS upon the consent of the youth, must show that the youth⁴

- 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; and
- that reentering foster care is in the best interest of the youth.
- Additionally, for youth discharged from foster care at age 16 or older, the LDSS, upon the consent of the youth, must demonstrate that they currently are or are likely to become homeless unless they reenter foster care.

Appendix A, *Reentry Into Foster Care: What Runaway and Homeless Youth 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 must provide information to the youth about their ability to reenter foster care and discuss the option to reenter care with the youth.⁵ If the youth expresses an interest, RHY program staff must refer such youth to the applicable LDSS. For most youth, the applicable LDSS is the LDSS that previously had care and custody or custody and guardianship of the youth. A listing of all LDSSs with their contact information may be found at: <https://ocfs.ny.gov/main/localdss.asp>.

Appendix B, *Were You in Foster Care?*, is provided so RHY program staff may provide educational materials to youth on this subject.

B. Destitute Child

A destitute child is defined⁶ as a child who is under 18 years of age 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,"⁷ 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
- (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

⁴ FCA § 1091(a).

⁵ Executive Law § 532-b(1)(h).

⁶ FCA § 1092(a).

⁷ FCA § 1012(e) and (f).

- (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. The use of this tool is optional for RHY programs; however, each RHY program must have a standardized process through which these required identifications are assessed.

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 their 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 a destitute child as defined under §1092 of the FCA. RHY programs must articulate in their policy and procedure manual how each youth will be assessed for foster care experience and their status as a destitute child. The RHY program must document all assessments, notifications, and actions made in accordance with this policy in the youth's case file.

A. Reentry Into Foster Care

Information for Youth: When a youth under 21 years of age in an RHY crisis services program indicates that they were previously in foster care and voluntarily left or were discharged from foster care on or after their 16th birthday, staff in the RHY program must provide information to the youth about their ability to reenter foster care. The *Where You in Foster Care* publication (Appendix B) is provided for this purpose.

Contact with the LDSS: If the youth indicates an interest in reentering foster care, RHY staff must refer the youth to the applicable LDSS. For most youth, the applicable LDSS is the LDSS that previously had care and custody or custody and guardianship of the youth. For youth who most recently left the custody of the New York State Office of Children and Family Services (OCFS), it is the LDSS of the youth's current residence. All contacts made on behalf of a youth in an RHY program must be preceded by written consent from the youth and recorded in the youth's case record.

B. Destitute Child

Contact with the LDSS: If the RHY staff has 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, the RHY program must contact the appropriate LDSS on behalf of the child. 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. 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/ Nina Aledort, Ph.D., LMSW

Issued by:

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