



Office of Children and Family Services

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Acting Commissioner

Administrative Directive

Transmittal:	17-OCFS-ADM-06
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	June 27, 2017
Subject:	Providing Services to Children of Undocumented Immigrants
Suggested Distribution:	Directors of Social Services Voluntary Authorized Agencies Staff Child Protective Services Supervisors Child Welfare Supervisors Foster Care Supervisors Staff Development Coordinators
Contact Person(s):	Please see section V.
Attachments:	none

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR 403.7	SSL §§ 122(2) and 398-e		

I. Purpose

The purpose of this Administrative Directive (ADM) is to remind local departments of social services (LDSSs) and voluntary authorized agencies (VAs) that no child who is a United States citizen or who is lawfully residing in the United States can be denied any social services for which the child is otherwise eligible because of the residency status of the child's parent(s) or custodial relative(s).¹ This ADM also is intended to remind LDSSs and VAs that, in 2010, an amendment to

¹ 18 NYCRR 403.7 (d).

18 NYCRR 403.7(b) removed the requirement to report undocumented immigrants² receiving referral services and protective services to the United States Department of Homeland Security.

II. Background

The New York State Office of Children and Family Services (OCFS) serves New York's public by promoting the safety, permanency and well-being of the state's children, families, and communities. Like all families, immigrant families, regardless of their immigration documentation, may come into contact with the child welfare system for many reasons, including an allegation of abuse or maltreatment. Immigrant families involved with the child welfare system may encounter obstacles such as poverty, language barriers, lack of health care and health insurance, among others. Undocumented parents or custodial relatives may not seek the services that their children need for fear that accessing such services will bring them to the attention of immigration enforcement personnel.

III. Program Implications

A child who is a United States citizen, or who is lawfully residing in the United States, is entitled to receive any social services for which the child is otherwise eligible,³ regardless of the residency status of the child's parent(s) or custodial relative(s).⁴

A child who is not lawfully residing in the United States is entitled to receive information and referral services, child protective services, and foster care services.⁵

There is no requirement for LDSSs and VAs to report undocumented immigrants to the United States Department of Homeland Security. This includes undocumented children and families receiving information and referral services, child protective services or foster care services, as well as the undocumented parent(s) or custodial relative(s) of a child receiving social services who is lawfully residing in the United States or a citizen of the United States.

IV. Required Actions

LDSSs and VAs must not deny appropriate service(s) to a child, for which the child is otherwise eligible, regardless of the residency status of the child's parent(s) or custodial relative(s).

LDSSs and VAs must not report to immigration enforcement personnel in instances where:

- undocumented children and families receiving information and referral services, child protective services or foster care services, and
- the undocumented parent(s) or custodial relative(s) of a child receiving social services who is lawfully residing in the United States or a citizen of the United States.

² Undocumented immigrants are foreign nationals who have entered the United States illegally or foreign nationals who entered the United States legally but whose visa is no longer valid.

³ Qualified immigrants and United States citizens are subject to federal eligibility requirements for federal benefits.

⁴ 18 NYCRR 403.7 (d).

⁵ 18 NYCRR 403.7 (b), SSL §§ 122 (2) and 398-e.

V. Contacts

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VI. Effective Date

This release is effective immediately.

/s/ Thomas R. Brooks

Issued By:

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