

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



ARTHUR Y. WEBB
 Acting 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.: 82 ADM-62
 [Services]

TO: Commissioners of Social Services

SUBJECT: Child Returned to Foster Care
 After Interruption of Care

DATE: September 17, 1982

SUGGESTED DISTRIBUTION: Commissioners
 Directors of Services
 All Children's Services Staff
 Authorized Agencies Providing
 Foster Care Services

CONTACT PERSON: Any questions concerning this release should be directed to Mr. H.A. Harkess, Office of Policy Planning, Division of Services, by calling toll free 1-800-342-3715, Extension 4-9574.

I. PURPOSE

The purpose of this letter is to advise all local districts and authorized child care agencies of procedural requirements necessitated by an amendment to Subdivision 6 of Section 398 of the Social Services Law. Chapter 204 of the Laws of 1981 added a new paragraph (n) to Section 398.6 providing the following:

- a child being returned to foster care following an interruption of care shall, when it is in the best interest of the child, be placed in the foster family home in which that child was last placed;
- a waiver of the general rule restricting placement of no more than six children in a foster family home when placement is made in compliance with this statute.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
82 INF-2	82 INF-2	431.11	SSL 398.6 SSL 378.3 SSL 378.4		

DSS-296 (Rev. 3/82)

II. BACKGROUND

While it is clearly the aim that a child who is discharged from foster care either to return home, to live with relatives or to be adopted should remain out of care, it is increasingly evident that a number of such children will return to foster care. Good social work and foster care placement practice recommend that careful consideration be given to the desirability and viability of placing a child who is returning to care with foster parent(s) with whom he/she has previously developed a relationship. However, in some cases where such placement might be considered to be in the best interest of the child, local districts could not place the child in the foster home because of restrictions in Section 378 of the Social Services Law which limit the maximum number of children who may reside in a foster home.

The new changes in the Social Services Law, effective June 9, 1981, are designed to reduce the multiplicity of placements for children in the foster care system by requiring a review of all cases in which children are returning to care and by requiring placement of those children with their prior foster parents when such placement is determined to be in the best interest of the child. The new section of the law eliminates a potential barrier to implementation by waiving the restriction in current law regarding numbers of children who may reside in a foster family home whenever placements are made in compliance with Section 398.6(n) of the Social Services Law. The restrictions of Section 378 of the Social Services Law are, however, wholly in effect for all other placements.

III. PROGRAM IMPLICATIONS

These changes in Social Services Law are applicable to all children returning to foster care on or after June 9, 1981. The implementing regulations are found in Section 11 of Part 431 of Department Regulations.

Although Section 398.6 of Social Services Law is nominally applicable only to local districts, it is clear that the Legislative intent as well as the intended benefits should make this requirement applicable to all children in foster care. Accordingly, the Department has developed implementing regulations that include authorized agencies as well as local social services districts.

These regulations require that the local social service official or an authorized agency acting on such official's behalf shall, when it is determined to be in the best interest of the child, place a child returning to foster care after an interruption in care who had previously been in a foster family home with the foster parent(s) with whom the child was last placed. In any instance where a child is not returned to the foster home in which the child was last placed, the local district or the authorized agency must document the basis for the placement decision in the child's case record.

To assist local districts and authorized agencies in making the determination whether it is in the best interest of the child returning to foster care to be placed with the former foster parent(s), the Department has identified eleven factors which are to be considered in this determination:

- (1) Certification/License status of the prior foster parent(s);
- (2) Length of time in placement with prior foster parent(s) and quality of relationship that developed during that placement;
- (3) Length of time since placement with the prior foster parent(s);
- (4) Basis for the child's discharge from placement with the prior foster parent(s);
- (5) Willingness of prior foster parent(s) to accept returning child;
- (6) Willingness of child to return to prior foster parent(s);
- (7) Availability of space in the foster home;
- (8) Ability of prior foster parent(s) to care for returning child;
- (9) Proximity to prospective adoptive parents, if return to care was caused by temporary disruption of adoptive placement;
- (10) Proximity to siblings in care, if applicable; and
- (11) Compliance with standards for appropriateness of placement in accordance with utilization review requirements.

The implementing regulations also provide for a supervisory review process and for additional factors to be considered when a child who re-entered care on or after June 9, 1981 has already been placed in a foster family home other than with the foster parent(s) with whom the child was last placed.

IV. REQUIRED ACTION

The care of each child entering foster care shall be reviewed to determine if the child was previously in foster care and whether the child was placed in a foster family home. For each child who was previously

in foster care and who was in a foster family home, a determination must be made whether it is in the best interest of the child to be placed with the foster parent(s) with whom the child was last placed before the interruption in foster care. This determination must include consideration of the factors included in Part III of this directive and in Subdivision (c) of Section 11 of Part 431 of Department Regulations.

Where it is determined that it is in the best interest of the child to be placed with the foster parent(s) with whom that child was last placed, the local social services district or the authorized agency acting on the district's behalf is required to place the child in that home. This placement will be made even if the foster home already has reached its maximum capacity pursuant to Section 378 of the Social Services Law. In no case, however, will such a placement be deemed sufficient reason to remove another child from that home.

Return placements to the prior foster home do not require any special documentation. However, the requirements of Department Regulations Part 428 pertaining to Uniform Case Records and of Section 430.8 relating to Utilization Review must be met. In addition, the district or agency making such a placement shall ensure that the foster family home is appropriately licensed or certified pursuant to Part 443 or Part 444 of Department Regulations.

Where it is determined that it is not in the best interest of the child to be placed with the foster parent(s) with whom the child had last been placed, this determination must be documented in the Uniform Case Record. This documentation must be included in the first Assessment Summary made after the child's re-entry into foster care. The assessment and documentation must be in accordance with Part 428 of Department Regulations.

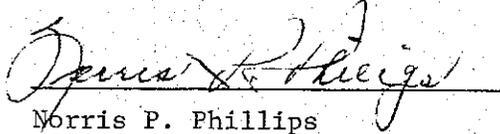
In the event that there is a child who has been returned to foster care on or after June 9, 1981, who was not placed with their former foster parent(s) and for whom the determination and assessment outlined above has not been completed, the local district or authorized agency which placed the child must make that determination and assessment immediately. In doing so, the district or agency must take into consideration the following additional factors in making the determination regarding the best interest of the child:

- (a) how well the child is faring in the present placement; and
- (b) the impact of removal of the child from the present placement and return to the foster parent(s) with whom he was previously placed.

Wherever it may be determined to be in the best interest of the child to place the child with the prior foster parent(s), it is clearly the intent of the statute that this shall be done.

V. EFFECTIVE DATE

The effective date of the statute is June 9, 1981. The applicable effective date of this directive is therefore also June 9, 1981.

A handwritten signature in cursive script, appearing to read "Norris P. Phillips", is written over a horizontal line.

Norris P. Phillips
Deputy Commissioner
Division of Services

