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Informational Letter

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I. Purpose

The purpose of this Informational Memorandum (INF) is to transmit to social services districts and voluntary authorized agencies a practice guidance paper, "Keeping Siblings Connected: A White Paper on Siblings in Foster Care and Adoptive Placements in New York State." This paper, developed by the Office of Children & Family Services (OCFS) in conjunction with Welfare Research Incorporated (WRI), provides social services districts and voluntary authorized agencies with a framework for practice to strengthen sibling bonds for children placed in foster care or adoptive placement.

II. Background

OCFS regulations, which took effect on July 26, 1988, for the first time provided regulatory requirements that govern the placement of siblings together in foster care or adoptive placement. Chapter 854 of the Laws of 1990 evidenced support for this practice by the New York State Legislature. The statutory language strengthened the practice requirements even more by mandating regular visiting and communication for separated siblings and by adding that both placement together and visiting for separated siblings is *presumptively* in the child's best interests, unless contrary to the child's health, safety or welfare. OCFS regulations were amended effective September 25, 1991, in order to fully incorporate the statutory requirements of Chapter 854. On June 8, 1992, Administrative Directive 92 ADM-24 was issued. That directive remains in effect, and child welfare staff should review it and take all necessary steps to comply with the policies therein. The directive is attached to this INF and also available at:

<http://ocfs.state.nyenet/policies/external/1992/ADMs/92-ADM-24 Foster Care, Adoption; Requirements for Siblings Placement, Visitation and Communication.pdf>

Fifteen years have passed since these policies and practices were promulgated. In recent years, as part of the Child Welfare Program Improvement Plan, OCFS has begun "Youth in Progress" (YIP), an initiative that is part of the Adolescent Services Workgroup committed to promoting youth voice and empowering youth. This group has identified that the placement of siblings together and sibling visitation are vital to their need for family connections and has identified these issues as priorities.

In addition, the federal Child and Family Services Review (CFSR) has developed assessment criteria regarding keeping siblings together in foster care and visits between separated siblings in foster care. New York State and social services districts are accountable for performance with regard to these key indicators of effective practice.

Furthermore, a 2006 performance audit by the Office of the State Comptroller (OSC) was completed to assess statutory and regulatory compliance with sibling placement decisions and visitation between separated siblings in foster care. OSC found that improvement was needed in both of those areas. Fifty cases in five upstate social services districts were reviewed. The separation decision was found to be adequate in 78% of the cases reviewed. Only 60% of the required sibling visits were documented in the cases reviewed. OSC's findings and recommendations were instrumental in OCFS's decision to issue this paper. A similar audit is currently underway in New York City, Administration for Children's Services.

III. Program Implications

Keeping Siblings Connected: A White Paper on Siblings in Foster Care and Adoptive Placements in New York State emphasizes the importance of the sibling bond to children's development and emotional well-being. Siblings are family, and the connection to family helps give children their identity as well as their feeling of belonging in the world. Sibling contact gives children continuity with their family even when circumstances require separation from their parents. Conversely, the loss experienced by children who must be separated from their parents because of safety or other reasons is only compounded by the loss of contact with their siblings.

Given the need to focus on sibling relationships, the white paper addresses the benefits as well as the challenges of taking siblings into account in every foster care and adoptive placement and every visiting plan. The paper includes a summary of the statutes and regulations regarding siblings, a review of policies in other states, a discussion of issues, and recommendations for improving placement and visits with siblings for children in foster care and adoption.

Based on Social Services Law and the Family Court Act, the Administrative Directive 92 ADM-24, "Foster Care, Adoption: Requirements for Siblings Placement, Visitation and Communication" spells out casework requirements of OCFS. The ADM, along with this white paper, serves as a reminder to local district and voluntary authorized agency staff of the importance and necessity of paying attention to siblings as an integral part of child welfare casework practice.

Throughout the white paper are quotes from youth in foster care speaking from their own experiences about placement and visits with siblings. Through YIP, the state's foster care youth leadership advisory team, young people have the opportunity to express their concerns, desires, and recommendations related to siblings. The YIP team sees family visits as a priority issue.

The starting point for a discussion of siblings is the current policy that children entering foster care or adoption should be placed together with their siblings unless contrary to the health, safety, or welfare of one or more of the children. This should be an ongoing process and not a one-time decision at initial placement. Given the expectation that siblings be placed together, agencies must

make diligent efforts to identify a foster or adoptive home willing and able to accept the placement. This includes identifying a relative willing to provide kinship care to all of the children or some of them while providing opportunities for continuing contact among the siblings.

To separate siblings, an assessment or consultation with other professional staff such as a licensed psychologist, psychiatrist, other physician, or certified social worker is required; agency staff must document reasons for separating siblings in the Family Assessment and Services Plan (FASP).

When siblings are placed separately, agencies are required to make diligent efforts to facilitate biweekly face-to-face contact between siblings and half-siblings, unless it would be harmful to their health or safety or unless geographic proximity precludes visiting. Foster parents must agree to cooperate with the agency in facilitating sibling visits, but the agency is responsible for having the visits take place and documenting them in the FASP.

After a review of other states' policies and a discussion of benefits and challenges to placing siblings together and sibling visitation, the white paper presents recommendations for practice:

Recommendations for Sibling Placement

- Recognize the right of siblings to be placed together.
- Increase training for caseworkers and supervisors on sibling placement.
- Recruit foster homes for sibling groups.
- Train foster/adoptive families on sibling issues.
- Enhance assessment procedures.
- Include youth in the decision to place siblings together.
- Consider older siblings as placement options.
- Monitor placement decisions for opportunities to place siblings together.

Recommendations for Sibling Visits

- Recognize and reinforce throughout the agency the requirements for sibling visits.
- Increase training for caseworkers and supervisors on sibling contact.
- Include youth in planning and decisions about visits with siblings.
- Broaden the definition of visits beyond the minimum contact requirements.
- Never use visits as a method of discipline.
- Enhance the ability to visit older siblings.
- Coordinate the provision of services to the family.
- Facilitate visits with half-siblings, step-siblings, and adopted siblings.
- Facilitate visits with siblings who are not in placement.
- Enhance training of foster and adoptive parents about the importance of sibling contact.

The white paper includes the section *Before and After Adoption*, which addresses sibling issues in adoption. Siblings and half-siblings who are freed for adoption must be placed together in a pre-adoptive home unless placement together is determined to be not in the best interests of one or more of the children. Agencies must inform foster parents if any child placed with them has minor siblings, and, if so, if they are free for adoption. Youth who are 14 and older can decide for themselves whether they want to be adopted, although at every Service Plan Review (essentially every six months) caseworkers must ask youth 14 and older about the possibility of adoption as their circumstances and needs change.

If children are not placed together, agencies also must discuss with the adoptive parents their willingness to facilitate contact between the adopted child and any siblings, and inform the adoptive parents of the availability of services, if any, to assist in establishing and maintaining sibling contact. Contact with siblings may continue in several ways, including a contact agreement as part of a conditional surrender.

In conclusion, the importance of the relationship with siblings should be considered in all major decisions related to children in out-of-home care, including placement, service planning, and discharge. Going beyond fixed ideas about separating or placing siblings together, recognizing a family's unique situation, and listening to the children themselves will only lead to more creative and successful outcomes for children and families.

/s/ Nancy W. Martinez

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Keeping Siblings Connected:

*A White Paper on
Siblings in Foster Care
and Adoptive Placements
in New York State*

New York State Office
of Children and Family Services

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BACKGROUND

"A lot of kids don't know that kids can ask to be placed together. They don't know what their rights are. The caseworkers should know to keep the siblings together. The caseworker should ask."

"Everything should be determined on a case-by-case basis—no 'cookie cutter' or 'one size fits all' rules."

"Maybe visits could be at one of the foster homes instead of at a room at DSS. Or maybe a park or somewhere that seems less formal—somewhere where you could do normal stuff."

At regional meetings and retreats, youth in foster care in New York State are speaking from their own experiences about placement and visits with siblings. Through Youth in Progress (YIP), the state's foster care youth leadership advisory team, young people have the opportunity to express their concerns, desires, and recommendations related to siblings. Their voices will be heard throughout this white paper.

With the increasing emphasis on child welfare practice that is family-centered and strength-based, viewing sibling contact as integral to the child's well-being has come into focus. This white paper addresses the benefits as well as the challenges of taking siblings into account in every placement and every visiting plan. Included here is a summary of the statutes and regulations regarding siblings, a review of policies in other states, a discussion of issues, and recommendations for improving placement and visits with siblings for children in foster care.

Although the 1992 Administrative Directive 92 ADM-24, "Foster Care, Adoption: Requirements for Siblings Placement, Visitation and Communication," has been published for some time, it has been apparent that more attention needs to be paid to sibling issues. Based on Social Services Law and the Family Court Act, the ADM spells out casework requirements of the New York State Office of Children and Family Services (OCFS). The ADM, along with this white paper, serves as a reminder to local district and voluntary authorized agency staff of the importance and necessity of paying attention to siblings as an integral part of child welfare casework practice.

Underlying New York State regulations¹ is the understanding that the sibling bond is important to children's development and emotional well-being. Siblings are family, and the connection to family helps give children their identity as well as their feeling of belonging in the world. Sibling contact gives children continuity with their family even when circumstances require separation from their parents. Conversely, the loss experienced by children who must be separated from their parents because of safety or other reasons is only compounded by the loss of contact with their siblings.

¹ 18 NYCRR 421.2, 421.8, 421.18, 430.11, 431.10

The sibling question has enormous consequences for the field of child welfare. A large majority of children in foster care have a sibling who has also been removed from the home. Until recently, however, the sibling factor has had lower priority in decision-making, partly because of immediate needs that seem more pressing at the time. Many other reasons intervene to prevent a clear focus on the importance of siblings. This white paper addresses these challenges to prioritizing sibling placement and contact, and offers guidance on enhancing the sibling bond whenever it is in the children's best interests.

SIBLING PLACEMENT

"You should have at least one family member with you in the same house. It might help for you to be together."

"Placing some of the siblings together is a start, but the agency or county should work hard to eventually place all the siblings in the same household. The situation should always be re-evaluated and reassessed."

"Give the agency some credit—they are doing their best. Not every house can accommodate 5 children. Don't leave one by themselves; have it split 3-2. Keep the communication lines open between the two homes."

Sibling placement policy—summary

Current law and regulations maintain that children entering foster care or adoption must be placed together with their siblings unless contrary to the health, safety, or welfare of one or more of the children.² This is the starting place from which practice flows according to the needs and circumstances of the family. As noted above by a youth in foster care, considering placing siblings together should be an ongoing process and not a one-time decision at initial placement.

Given the expectation that siblings be placed together, the agency must make diligent efforts to identify a foster or adoptive home willing and able to accept the placement. This includes identifying a relative willing to provide kinship care to all of the children or some of them while providing opportunities for continuing contact among the siblings.

The term "sibling" as used in this white paper includes "half-siblings," children who have one parent in common.

² FCA § 1027-a; 1055(i)

To separate siblings, an assessment or consultation with other professional staff such as a licensed psychologist, psychiatrist, other physician, or certified social worker is required to determine that placement together would be contrary to the health, safety, or welfare of one or more of the children. Factors to be considered include age, health and developmental differences, emotional relationship, individual services needs, attachment of the individual siblings to separate families/locations, and continuity of environment standards. As with all activities related to siblings, agency staff are required to document reasons for separating siblings in the Family Assessment and Services Plan (FASP).

When for reasons of safety, children need to be placed on an emergency basis, and no foster home is available for all of the siblings, the siblings must be reunited within 30 days unless contrary to their health, safety, or welfare.³

To further facilitate the placement of siblings together, the law requires setting the date certain for the permanency hearing for a child who is entering foster care to coincide with the previously established date certain of a sibling or half-sibling who is currently in foster care, unless the sibling or half-sibling entered foster care under Family Court Act (FCA) Article 3 or 7.⁴

Other state policies for sibling placement

A number of other states have specific sibling placement policies as well (NRCFCPP, 2005a). California's policy only states that the worker must document diligent efforts to place siblings together and reasons why they were not placed together; the law, however, provides the sibling relationship greater protection by requiring clear and convincing evidence to show why siblings should not be placed together and/or have contact (Shlonsky, et al., 2005).

Kentucky's policy states that "when placing a child in foster care, the initial placement plan should be to place siblings together, unless circumstances exist that would not be in the child's best interest. The sibling bond is irreplaceable. Connections between siblings and significant others should be maintained to preserve the child's emotional well-being and self-esteem." The policy is linked to a tip sheet, which lists possible reasons for separating siblings, and a placement decision-making matrix.

Maine's policy was written with youth in care who are members of the Youth Leadership Advisory Team. It states that "placement of siblings together should be made a priority in case planning and implementation of the case plan. Valid reasons must be identified and documented for not placing siblings together." It recognizes the need to separate siblings in some situations, but requires that these cases "be assessed on a case-by-case basis with the intent to strengthen the relationship and possibly reunite the children in the future."

In Michigan, second line supervisory approval is required for a placement that separates or maintains separation of siblings.

³ FCA § 1027-a

⁴ FCA § 1055(b); 1089

Minnesota requires placement of siblings together “at the earliest time possible.” Out-of-home placement plans require documentation of efforts to place siblings together, and a plan for reuniting siblings placed separately in foster care. The state is unusual in stating reasons that are not acceptable for continued separation: failure to find a placement, sibling aggression, parentification (a child assuming the role of parent), inability of a family to meet the needs of a large group, and previous disruptions.

States have different time frames for making efforts to reunite separated siblings. In Texas, “diligent efforts to reunite the siblings should occur within 60 days, and these efforts must be documented. In the event siblings cannot be reunited within 60 days, continued documentation of all efforts to reunite the siblings must be kept in the record and addressed at the initial and subsequent Permanent Planning Team meetings.” Indiana’s policy states that if siblings are separated, they must have contact within 48 hours and are to be placed together within 10 business days.

See the National Resource Center for Family-Centered Practice and Permanency Planning’s *Policies on Placing Siblings in Out of Home Care* (December 28, 2005) for links to state policies: <http://www.hunter.cuny.edu/socwork/nrcfcpp/infoservices/siblings.html>.

Benefits of placing siblings together

“Practice wisdom and limited research support the basic premise that children experience better outcomes when placed with their siblings. These outcomes include greater stability, fewer emotional and behavioral problems, fewer placements, and fewer days in placement” (Groza, et al., 2003). Research is limited partly because of the complexity of the issues, which are explored below.

As articulated in the sibling policy of New York City’s Administration for Children’s Services (ACS), placing siblings together lessens the trauma of removal, reinforces the importance of family relationships, facilitates visits and communication between children and their parents, and expedites the management and delivery of social work services to the children and their families.

In a proposed assessment tool to help caseworkers make complex decisions about placement, Groza (2003) lists possible benefits of placing siblings together and benefits of placing them separately based on the family’s specific circumstances. Expressed in simple, to-the-point language, benefits of placing siblings together occur when the children:

- do not have to experience another loss (can begin to heal).
- have a shared history (sense of roots).
- learn to work through their problems rather than running from them.
- feel safer in a new home when they are with their siblings.
- are better able to attach to caregivers when the sibling attachment has not been damaged.
- have other people in the family that look like them.

- have a shared biological/genetic history that can be used to predict future physical/medical needs based on the eldest child.

Benefits to separating siblings occur only when other factors intervene, such as:

- the child is living with a family that s/he has lived with for a significant period of time and has formed an attachment; moving the child will result in a significant loss.
- the child will be physically and emotionally safer remaining separated.
- the child has such special needs that separating him/her will allow the family to meet those needs.

Underlying the benefits noted above is that placing siblings together furthers the promotion of lifelong family relationships. Growing up with siblings, children keep their family connection and have the opportunity to form long-lasting, durable relationships.

Sibling placement—issues and concerns

Although the goal of child welfare practitioners is to recognize the importance of the sibling bond and to place siblings together whenever possible and safe for the children, it is not always met for a number of reasons. Challenges in practice include:

- lack of available foster and adoptive homes willing to accept siblings
- insufficient community support for families caring for sibling groups
- varying ages of siblings
- size of the sibling group
- siblings entering care at different times
- sibling with needs for different levels of care
- defining who is a sibling
- need for caseworker training in sibling relationships
- need for supervision regarding placement decisions

The shortage of foster homes able and willing to care for sibling groups is partly attributed to limited physical space. Caseworkers may need to be reminded that exceptions can be made for placing sibling groups together. The law states that exceptions can be made for boarding additional children if they are siblings or half-siblings, or if they are siblings or half-siblings of a child already living in the home.⁵

Another more complex issue arises when families may not accept a sibling group because they are already caring for other children placed in the home, as well as their biological children. The question then becomes, should the children already in the home be moved (and further disrupted) to allow siblings to be together?

⁵ SSL § 378

The need of foster and adoptive families for support, including respite, financial assistance, and counseling services, is real and ongoing. The extent of agency and community support can greatly influence the amount and viability of resource families.

A 2005 longitudinal study (Wulczyn) of children entering foster care in New York City between 1985 and 2000 found that certain sibling group characteristics—sibling group size, ages of the siblings, and placement type—influence whether siblings will be placed together and remain together over time (intactness). The study found that when the number of siblings is smaller, the likelihood of placement in the same setting is higher,⁶ as it is when the children in sibling groups are closer in age (less than six years apart between the first child entering care and the next sibling). It found that sibling groups placed in kinship care have a much higher likelihood of remaining intact compared to those placed in foster boarding homes; in group facilities, sibling groups are almost five times as likely to be separated.

Whether children enter care together is crucial: if they are not placed together on the same day, they are much less likely to be placed with a sibling. Unfortunately, the Wulczyn study found that “siblings entering care together (i.e., on the same day) make up less than one-half of the sibling groups that eventually enter placement.” When siblings do enter foster care at the same time, the likelihood of intact placement is high.

The Wulczyn study concludes that “it is critical to place children together from their initial placement forward. This requires a commitment to having foster care resources available to accommodate siblings, especially for larger sibling groups. For children entering foster care after their siblings, it means identifying children immediately as part of a group and uniting them in their first placement, unless the decision is contraindicated by the needs of any given sibling.”

An additional point about age concerns the placement of siblings who are far apart in age. When it may appear that efforts need not be made to place an infant or toddler in the same home as a sibling teenager, the opposite may be true. The adolescent may value this relationship as a means of experiencing family and connection. In the future, s/he may provide important support to the younger sibling. Asked whether a baby should be placed in the same home as an older sibling, some of the youth from Youth in Progress responded: “It should at least be a consideration.” “Definitely, it may make the younger child’s transition into the system a lot easier.” “Yes, so the baby can grow up with someone in the family.” “Yes, if the foster family can cope with both children’s needs.”

The issue of sibling needs for different levels of care is most challenging. The assessment by a qualified professional should determine whether the needs of a sibling are such that a specialized setting is required. However, it is important to keep in mind that children with special needs have the universal need to be loved, to belong, and to feel safe, and that they should not automatically be placed separately from their siblings. Instead, living with their siblings may help satisfy those

⁶ In New York State, 2005 data show that statewide 64% of all groups of two siblings, 51% of groups of three siblings, and 27% of groups of four or more siblings were placed together as of December 31, 2005.

universal needs. A better solution is to recruit and train foster and adoptive families who can care for children with special needs and their siblings (Casey, 2003).

How to define a sibling is another area of concern when making placement decisions. Degree or type of sibling includes full siblings, half-siblings, step-siblings, and assumed siblings (in a long-time relationship that takes on the nature of a sibling). Whether the children have lived together and whether they have developed bonds with one another are related considerations.

Practice recommendations for sibling placement

The New York State Handbook for Youth in Foster Care (2007) states:

Your caseworker is required to try hard to place you and your sisters and/or brothers (siblings) together if they need to be in foster care too. If there are no safety or other issues about being together, your caseworker should try to keep you together. If you and your siblings are placed separately, ask your caseworker why.

Recognize the right of siblings to be placed together.

New York law and regulations state that siblings are to be placed together in a foster care or adoptive home unless the placement is determined to not be in the best interests of the children.⁷

Increase training for caseworkers and supervisors on sibling placement.

Training should reinforce the law and regulations of New York State on sibling placement and provide ideas and resources for filling the requirements. Research and developmental information should be provided on sibling relationships and the importance of the sibling bond.

Supervisors should receive training on their responsibility to review and approve case records to determine that documentation is complete regarding diligent efforts to place siblings together. Emphasize training on documentation and why it is necessary; this includes documentation through the CONNECTIONS Family Assessment and Services Plan (FASP) and Progress Notes.

Regarding sibling placement, caseworkers must document in Progress Notes that (1) foster parent(s) or prospective foster parent(s) have been asked whether they will accept a sibling group, if appropriate; and (2) foster parents have been provided with information on the existence and location of all siblings or half-siblings of any child placed with them.

Recruit foster homes for sibling groups.

Increase recruitment for homes that can take siblings and that value the sibling bond. Call on existing foster families for both foster care and adoptive placements of sibling groups. Seek kinship placements whenever possible.

⁷ FCA § 1027-a; 1055(i)

Consider more creative ways of supporting these homes with extra beds, respite (babysitters, day care), logistics, transportation, scheduling of appointments, and solicitation of community donations (Schepard & Liebmann, 2007).

When a child comes into placement, research the records to determine whether there are siblings already in placement or who have been adopted. If so, look to that family as the first placement (NRC for Adoption).

Train foster/adoptive families on sibling issues.

To be most effective, training should acknowledge and emphasize the sibling bond, including drawing on the caregivers' personal experience as a sibling. Offer topics on running a large household with children of differing ages, perceiving/handling conflict among siblings, dealing with a parentified child, and incorporating a sibling with special needs into the family, among others.

Enhance assessment procedures.

Adopt/refine assessment procedures that help caseworkers learn about a child's siblings, including if/where they are placed in care, their relationship to the child being placed, and their developmental needs. Procedures should include questions for the caseworker to ask children about their siblings and preferences. This could include developing a genogram to identify what sibling or sibling-like relationship the child has with other children in the extended family.

Include youth in the decision to place siblings together.

This paper opened with a recommendation from a youth in foster care that the caseworker should ask children about their siblings. Another youth in care in New York State says:

“In general, when children are placed, they don't know how to ask to be placed together and they are not asked for it to be done.”

The Maine Youth Leadership Advisory Team (2002) made this point in its policy recommendations: “Youth should have an opportunity to voice their views about placements, and have their views included in the final placement decision.”

Consider older siblings as placement options.

The Maine Youth Leadership Advisory Team recommends: “An older sibling ought to be considered as a placement option for younger siblings, provided that the older sibling could adequately care for younger siblings with the same support that is provided to foster or adoptive parents and given that there is no danger of specific harm to a youth or it is not contrary to a youth's best interest.”⁸

⁸ Federal law 42 USC 671(a)(19) states that for a state to be eligible for payments under this part, it shall have a plan approved by the Secretary which provides that the state shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child provided that the relative caregiver meets all relevant state child protection standards.

Monitor placement decisions for opportunities to place siblings together.

Whenever a child is placed in a foster home, be sure to ask the foster parents if they can take the sibling(s) as well. Regulations state that foster parents must be informed if any child placed with them has siblings or half-siblings, and, if so, their location. Agencies should increase awareness among staff that exceptions allow foster homes to take more children if they are siblings.

If siblings are not placed together, agencies should attempt to place them near one another in the same school, neighborhood, town, or region. If possible, settings should be chosen where the caregiver promotes and facilitates frequent, meaningful contact. The visiting plan and service plan for the family should be constantly monitored for the possibility of placing siblings together. At each Service Plan Review, ask participants whether the children can or should be placed together. Continue to ask children if they wish to be placed together. Over time, children may change their minds about whether they do or do not wish to be placed with their siblings.

SIBLING VISITS

"I don't think it is a total failure if all the siblings are not placed together. Realistically, there is a shortage of foster parents and a shortage of foster parents or facilities that can take multiple siblings . . . as long as there is constant visitation then it's okay and they should also be placed close to each other."

"There should be a law stating that siblings should still be able to visit each other even when one sibling has been adopted."

"I think visiting siblings who aren't in placement is a good idea. You should be able to because you know you have someone in your life out there."

Sibling visit policy—summary

When siblings are not placed together, for whatever reasons, the issue of sibling visits arises.

When siblings are placed separately, agencies are required to make diligent efforts to facilitate biweekly face-to-face contact between siblings and half-siblings, unless it would be harmful to their health or safety or unless geographic proximity precludes visiting. Since "geographic proximity" is not defined, agencies must work with caregivers to determine the children's best interests in relation to available transportation, time, environment, and supervision.

Regular telephone contact and other communication (e.g., e-mail, notes, letters) should be arranged between visits. When in the best interests of all children involved, every effort should be made to coordinate parent-child visits to include the entire sibling group and the parent.

Foster parents must agree to cooperate with the agency in facilitating sibling visits, but the agency is responsible for having the visits take place and documenting them in the Family Assessment and Services Plan (FASP). The requirements for documenting visits are spelled out in 92 ADM-24.

Other states' policies for sibling visits

Policies of other states stress the importance of sibling visits (NRCFCPP 2005b). Some spell out the time frame for visits—monthly, biweekly, weekly (Missouri and Utah)—while others simply state that the visits should be frequent (California, Florida, Georgia, Kansas).

States vary in recognizing certain circumstances that may arise and tying them to requirements for sibling contact. Idaho's policy clearly articulates specific actions that support regular visits: "Write sibling visitation into case and alternate care plans and provide transportation and other supports resource families need to make those visits happen regularly. The plan should clearly state who would be responsible for making sure visits happen." Louisiana recognizes the right of youth 16 and older who do not want visits with siblings as an exception to required visits.

Illinois's policy lists certain conditions that might prevent biweekly visits—court order, request of child, or risk of harm. In Indiana, siblings are to visit biweekly unless one is placed in a residential facility; even then, visits are required but may be reduced to monthly. Kansas' policy is rare in requiring one of the twice monthly contacts to consist of the parents with all of the children, and one of them to be a sibling-only visit. Rhode Island's policy states that termination of parental rights proceedings should not affect the visiting plan for siblings.

In April 2006, Maine passed legislation that requires the custodians of foster youth and parents of adopted youth to facilitate visits between separated siblings (NGA). The passage of LD 1682, *An Act To Support Sibling Rights in Child Welfare Custody Matters* (now Public Law, Chapter 526), was spearheaded by youth in care who are members of the Youth Leadership Advisory Team. The law includes the recommendation to inform and explain to each sibling whenever a visit is cancelled. Similarly, when a youth is moved, siblings should be informed about the move, why it occurred, and the new location.

See the National Resource Center for Family-Centered Practice and Permanency Planning's *Policies on Sibling Visits in Out of Home Care* (December 28, 2005) for links to state policies: <http://www.hunter.cuny.edu/socwork/nrcfcpp/infoservices/siblings.html>.

Benefits of sibling visits

The starting point is to acknowledge and understand the importance of sibling contact to the well-being and emotional growth of children placed in care. When children are not placed together, visits can help maintain the attachment to family and lessen the trauma of being placed apart.

When visits are regular and frequent, and allow opportunity to connect in a meaningful way, they have many of the same benefits of sibling placement together: less trauma and loss, feeling of belonging, shared history, opportunity to work through problems. The single most important factor in getting children back with their biological families is regular and frequent visits, and it is easier for the birth parents to visit one family foster home than several (Barbell, 1995).

Sibling visits—issues and concerns

Although the goal of child welfare practitioners is to recognize the importance of the sibling bond and to facilitate sibling visits and contacts whenever possible and safe for the children, it is not always met for a number of reasons. Challenges in practice include:

- arranging visits: logistics, transportation, activities
- inadequate staff resources to arrange, supervise, monitor visiting plan
- inadequate assistance from caregivers
- siblings placed in different types of settings
- varying ages of siblings
- defining who is a sibling
- inadequate documentation of visits
- need for caseworker training in sibling contacts
- need for supervision regarding visits

Many of the issues related to sibling visits overlap with those related to sibling placement. Agencies are challenged by a lack of resources (financial, staff, training) to address factors like number, ages, and different types of siblings; varying levels of care; and point of entry into care.

The Youth in Progress team has identified improving family and sibling contacts as a priority. This decision arose out of the participating members' own experiences with lack of frequent, consistent, meaningful contact and inability to be heard on these concerns. Specifically, most problematic areas are visits between youth placed in foster homes and siblings in residential care; visits with older siblings; visits used as a disciplinary tool; supervised visits; communication about visits; and visits with past foster families or others not defined as siblings.

Youth leaders in the YIP team define visits as being face-to-face and having quality time together. They understand that supervision is necessary when safety is a concern but when it is not, they prefer more informal settings, longer visits, and more sibling-only visits. They value being able to visit an older sibling who may be living on his or her own; this is rarely allowed. They also value contact with half-siblings, step-siblings, and adopted siblings. Most important, they want to be consulted about their wishes and have input into visiting plans.

Practice recommendations for sibling visits

The New York State Handbook for Youth in Foster Care states, in bold:

Your caseworker is required to arrange for visits with your siblings at least every 2 weeks.

ACS's *Best Practice Guidelines* (2006) stress: "The importance of sibling visits for older children and youth in care should not be overlooked or underestimated."

Recognize and reinforce throughout the agency the requirements for sibling visits.

When agencies provide every youth in care a copy of the Handbook for Youth in Foster Care, both the agency and the youth are reinforced in the knowledge that the caseworker is required to arrange biweekly visits with siblings.

Develop agency policies regarding visiting plans that address sibling visits as a separate need from parent and child visits. Develop guidelines that define the roles and responsibilities of workers, birth parents, and caregivers for visits between siblings. Conduct regular supervisory reviews that target sibling visits (Minnesota, 2004).

Increase training for caseworkers and supervisors on sibling contact.

Training should reinforce the law and regulations of New York State on sibling contact and provide ideas and resources for filling the requirements. Research and developmental information should be provided on sibling relationships and the importance of the sibling bond.

Supervisors should receive training on their responsibility to review and approve case records so that documentation is complete when siblings are separated. Emphasize training on documentation and why it is necessary; this includes documentation through the CONNECTIONS Family Assessment and Services Plan (FASP) and Progress Notes. The Permanency Hearing Report requires information about sibling visits to be reported to the court.

Regarding visits, caseworkers must document in Progress Notes that (1) foster parents have been informed of the visiting plan for the child's parent(s), guardian(s), siblings or half-siblings; and (2) foster parents have been informed that diligent efforts will be made to facilitate regular biweekly visitation or communication between minor siblings or half-siblings who have been placed apart, unless such contact would be contrary to the health, safety or welfare of one or more of the children or unless the lack of geographic proximity precludes visitation.

Include youth in planning and decisions about visits with siblings.

Although many youth can articulate their preferences, sometimes children are unable to express clearly what they want because of age, developmental level, trauma, fear of authority, or other reasons. Questions phrased objectively and simply are helpful in these situations. For example:

1. Would you like to receive pictures of [sibling], hear about things happening in [sibling]'s life or be able to send them letters or birthday cards?

2. Do you like seeing or hearing from [sibling]?
3. Would you like to be able to visit with or talk to [sibling] on the phone?
4. Would you like to live in the same home as [sibling]?
5. Do you feel safe with [sibling]?
6. Do you ever feel scared around [sibling]?

... Once the child has identified what he or she wants, social workers should make every effort to follow through on his or her wishes, or clearly communicate to the child why it is not possible. Otherwise, the child might become disempowered and feel as though his or her desires do not matter to professionals (Herrick & Piccus, 2005).

Broaden the definition of visits beyond the minimum contact requirements.

Help siblings who have already been separated from each other have opportunities to maintain their relationship—frequent visits, including overnights; regular telephone contact; and the chance to celebrate important events together—no matter what the emotional and behavioral aftermath. Working on the emotional reactions to visits and contacts between siblings promotes the healthy growth and development of children (Barbell, 1995).

Visit planning should be creative and fluid, responsive to changes in case circumstances, and inclusive of different types of visits (e.g., joint appointments, school and community events, day trips, after-school programs).

Never use visits as a method of discipline.

Speaking about their own experience, youth leaders in the YIP team report that sometimes sibling and family visits are taken away because of a youth's behavior or for an unknown reason. Youth report that sometimes visits are denied as a result of a decision by caseworkers, parents, judges, or adoptive parents. The youth recommend that visits never be taken away as punishment.

Because of the deep issues of attachment and separation that may arise before or after a home visit, children may act out due to feelings of loss and sadness. Seek professional guidance from a mental health expert before making any decisions to limit or end visits solely based on a child's reactions (ACS, 2006).

When visits are cancelled or rescheduled, the caseworker should inform the youth of the reasons for cancellation and the date, time, and place for the rescheduled visit.

Enhance the ability to visit older siblings.

Develop supports for siblings nearing adulthood, who may become able to parent young brothers and sisters if the child welfare system backs them up. For example, foster parents could remain involved with the children and the parenting sibling in a quasi-grandparent role that includes guidance and occasional respite (Barbell, 1995).

One youth in YIP suggested: "Get the sibs qualified in some way—along the lines of how foster parents have to go through training and get an okay. Have them go through a process so they can

be a safe haven.” Another observed: “Foster care is all about permanency and family connections, so why would you stop someone from potentially connecting with a permanent resource?”

Coordinate the provision of services to the family.

Assign one caseworker per sibling group. Refer youth to the same counseling agency when therapy is recommended.

Facilitate visits with half-siblings, step-siblings, and adopted siblings.

“I have a lot of half-siblings and am not allowed to see them because they are not by the same parents as me. How do you feel? It hurts, it shouldn’t matter that they are half. It’s the same thing for step-sibs—if they want the contact. They are still my siblings and I have the right to see them.”

As in the search for absent fathers or other relatives, caseworkers may face the daunting task of identifying and locating siblings (in placement or not) of varying degree or type.

Facilitate visits with siblings who are not in placement.

“You should be able to visit siblings who live on their own as long as it is safe.”

The importance of facilitating visits between children placed in out-of-home care or adopted and those remaining in the home, although not required by law, should be stressed and viewed as best practice.

Enhance training of foster and adoptive parents about the importance of sibling contact.

Emphasize the importance of the sibling bond, sibling placement together, and continued contact when the children are not placed together (Maine YLAT).

BEFORE AND AFTER ADOPTION

“My brother’s adoptive mother won’t let me see him because I am part of his past and she wants him to move on and just be part of their family.”

Siblings and adoption policy--summary

New York State regulations require that siblings and half-siblings who are freed for adoption be placed together in a pre-adoptive home unless placement together is determined to be not in the best interests of one or more of the children. Agencies must inform foster parents if any child placed with them has minor siblings, and, if so, if they are free for adoption.

If children are not placed together, agencies also must discuss with the adoptive parents their willingness to facilitate contact between the adopted child and any siblings, and inform the

adoptive parents of the availability of services, if any, to assist in establishing and maintaining sibling contact.

After a child is adopted, continuing contact with siblings may be allowed in several ways:

- A contact agreement executed as part of a conditional surrender may provide for communication or contact between the child and the child's birth parent and siblings, if any. The agreement is signed by the adoptive parent, the birth parent, the agency having care and custody of the child, and the child's law guardian, and must be incorporated into the court order. If the contact agreement provides for contact with a child's sibling who is over the age of 14, the sibling must sign (consent), or the agreement is not enforceable as to that sibling.

The parties to the contact agreement or the law guardian for the adoptive child may go to court and ask that the agreement be enforced if the adoptive parent decides later to discontinue the contact with siblings. The law provides enforcement procedures for post-adoption contact agreements based on the best interests of the child. The law also provides that failure to comply with the terms of a post-adoption contact agreement cannot disrupt an adoption.⁹

- A judge who finalizes the adoption may order that contact between the child and the child's birth family be allowed after the child has been adopted.
- An informal arrangement between adoptive parents and birth parents, (e.g., kinship adoptions) may allow contact between the child and birth family. OCFS, however, encourages contact with the birth family to take place with formal agreements where the rights of the parties may be enforced.

It is important to remember that termination of parental rights or surrender by the birth parents does not necessarily terminate the rights of the child's siblings. Older youth who are adopted or wish to locate a sibling who is adopted can contact the Adoption Registry of the New York State Department of Health. The registry can help locate family members and even facilitate a reunion. There are age requirements associated with registering. For information, see www.health.state.ny.us/vital_records/adoption.htm.

In recognition of the special difficulty of placing more than one child at a time in an adoptive home, every state and the District of Columbia includes membership in a sibling group as one category of "special needs" that may qualify for adoption assistance (NRC Sibling Placement).

⁹ DRL § 112-b

Siblings and adoption issues and concerns

Although policymakers have emphasized children's needs for permanent connections, often achieved through adoption when family reunification is not possible, there are drawbacks to adoption in terms of sibling relationships. An adoptive parent who wishes to start new with a child may decide to sever contact with biological siblings.

As a result, and because older youth may want to keep the connection with other relatives as well, many youth in foster care choose not to be adopted. In New York State, youth who are 14 and older can decide for themselves whether they want to be adopted, although at every Service Plan Review (essentially every six months) caseworkers must ask youth 14 and older about the possibility of adoption as their circumstances and needs change.

McCarthy (2006-07) notes that few states guarantee the right of youth in foster care to continue seeing their adopted siblings, or vice versa. Louisiana and Oregon have passed laws giving youth adopted from foster care the right to maintain sibling contact.

Adoption law, originally written to protect the interests of families adopting infants, has not kept up with the changing times and does not reflect the needs of older children to maintain contact with their siblings. A step forward for New York State is the provision for post-adoption contact agreements (see above); children's advocates recommend further steps that allow for more comprehensive and legally binding ways to retain sibling connections (McCarthy).

CONCLUSION

"Siblings usually want to reconnect with each other as they get older."

"My brothers are all that I have for family as far as I'm concerned."

"I think that family is family, that connections are connections, and that the bond between them (siblings) shouldn't be taken any less seriously no matter how old they get."

Asked whether they feel that bonds with siblings get less or more important as they get older, the YIP youth leaders overwhelmingly responded, "more important." The paper *The Sibling Bond: Its Importance in Foster Care and Adoptive Placement* (NAIC) states: "The bond between brothers and sisters is unique—it is the longest lasting relationship most people have, longer than the parent/child or husband/wife relationship. While the bonds may wax and wane, a person's lifetime quest for personal identity is undeniably interwoven with his or her siblings."

Although there have been “troubling trends” in court decisions regarding siblings—such as seeing the sibling bond as only one of many factors in determining the best interests of the child, with no preference given to the bond—there are also “promising trends” including an increased awareness of sibling rights and the importance of the sibling bond. States are enacting statutes that recognize sibling rights, and clinical literature and research are increasingly available for citing in court (Casey, 2002).

In conclusion, the importance of the relationship with siblings should be considered in all major decisions related to children in out-of-home care, including placement, service planning, and discharge. Going beyond fixed ideas about separating or placing siblings together, recognizing a family’s unique situation, and listening to the children themselves will only lead to more creative and successful outcomes for children and families.

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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 92 ADM-24

TO: Commissioners of
 Social Services
 Directors of Voluntary
 Child Caring Agencies

DIVISION: Family and
 Children
 Services

DATE: June 8, 1992

SUBJECT: Foster Care, Adoption: Requirements for Siblings Placement,
 Visitation and Communication

 SUGGESTED

DISTRIBUTION: Directors of Services
 Children's Services Staff
 Legal Staff
 Staff Development Coordinators

CONTACT

PERSON: Your Regional Office Director:
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ATTACHMENTS: There are no attachments to this release.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		421.2	SSL 358-a	Adoption	
		421.15	SSL 384-a	Manual	
		421.18	FCA 027-a		
		421.19	FCA 1055	Standard	
		428.6		of	
		430.11		Payments	
		431.10		for	
		444.5		Foster	
		444.8		Care	

I. PURPOSE

The purpose of this directive is to inform you of requirements in Chapter 854 of the Laws of 1990 for placement of siblings and half-siblings together in foster care homes or facilities and in adoptive homes unless such placement would be contrary to the health, safety or welfare of one or more of the children. This directive also includes information on Department regulations which became effective on July 26, 1988, regarding placement of siblings together, and on amendments made to those regulations, effective September 25, 1991, to comply with the 1990 statute.

The directive also describes the requirement for authorized agencies* to facilitate regular visitation and communication among siblings who are separated. The term "siblings," as used in this directive, assumes the inclusion of "half-siblings"; i.e., children who have one parent in common.

Sections 358-a and 384-a of Social Services Law and Sections 1027-a and 1055 of the Family Court Act are amended by Chapter 854.

II. BACKGROUND

Following passage of the Child Welfare Reform Act of 1979, permanency planning for children entering foster care became the paramount objective. In placing a child, continuity of environment and least restrictive setting became primary considerations. Visitation and contact with the birth family were considered essential for the majority of children who had a permanency goal of return home. However, siblings entering foster care or adoptive homes were often placed as individuals. Until recently, even social research and literature on families at risk frequently failed to consider the need to maintain sibling relationships. In fact, some psychological studies focused on "sibling rivalry" and competition rather than sibling bonding and support. Some writers even advocated separation of siblings to reduce interdependence or rivalry.

Beginning in the mid-eighties, significant societal changes and litigation brought new focus to the issue of sibling separation. Court cases dealing with complex custody decisions in divorce cases and the increasing numbers of adopted children seeking contact with their birth families have raised awareness of the importance of maintaining sibling connections.

*The term "authorized agencies" includes both social services districts and voluntary child caring agencies (see 18 NYCRR 441.2(d)).

In July 1988 the Department promulgated regulations requiring that siblings must not be separated unnecessarily in foster care or adoptive placements. Social services districts were required to place siblings together unless the district determined, in consultation with other social services or health professionals, that such placements would be detrimental to the best interests of one or more of the children. In the list of several factors to be considered in the assessment of "best interests" in placing siblings together was the availability of foster and adoptive parents willing to accept siblings, a condition that has now been removed in response to the new law. The 1988 regulations also required foster parents to be informed that diligent efforts would be made to facilitate biweekly contact between siblings who are separated.

By enacting Chapter 854 of the Laws of 1990, the New York State Legislature generally supported Department policy and regulations already in effect regarding siblings entering foster care. However, the new statutory language went beyond the regulations then in place to strengthen the basic policy, requiring that siblings entering foster care must be placed together unless such placement would be "contrary to the child's health, safety or welfare." Chapter 854 also gives the social services district responsibility to provide or arrange for regular visitation and communication between siblings who are separated when such contact is in the best interests of the children. Chapter 854 adds that such placement, visitation and communication is "presumptively in the child's best interests unless such would be contrary to the child's health, safety or welfare." The Department revised its regulations on the placement of and contact between siblings to incorporate the statutory requirements in Chapter 854.

III. PROGRAM IMPLICATIONS

In implementing Chapter 854 and Department regulations governing placement of siblings together in foster or adoptive homes, social services districts are expected to begin with children currently entering foster care. Nothing in the law or regulations requires retroactive application of the new requirements or disruption of placements when such disruptions would adversely affect the siblings in care. It is not the intent of the Department to require rearrangement of placements made in the past UNLESS such changes would be in the best interests of the children involved. However, agencies are encouraged to review cases of previously-separated siblings to ensure that the best interests of the children are being followed in continuing their separation. Required service plan reviews and planning conferences provide opportunities for such reassessments.

Effective immediately, siblings entering foster care cannot be placed separately without a documented assessment in the uniform case record indicating why placement together would be contrary to the health, safety or welfare of one or more of the children. The requirements for consultation and assessment included in section 431.10 of Department regulations are expected to ensure that siblings will generally be

placed together in the same home or facility unless there is good cause to do otherwise. The requirement for placement together is applicable whether siblings enter care at the same time or at different points in time. The requirement also extends to placement of siblings together in prospective adoptive homes unless such placements are contrary to the health, safety or welfare of one or more of the children.

The statutory requirement to provide or arrange for visitation and communication between separated siblings is applicable in all foster care and pre-adoptive placements, regardless of placement date, unless contrary to the health, safety or welfare of one or more of the children, or unless an exception is made for lack of geographic proximity. (See III.D for discussion of this exception.) Authorized agencies have no authority or legal responsibility to maintain visitation and communication between separated siblings whose adoptions have been finalized, but should counsel with and encourage adoptive families at the time of placement regarding the importance of maintaining sibling connections in such cases.

A. Level of Placement

The statutory and regulatory requirement to place a foster child in the "least restrictive setting" must be taken into consideration in the placement of siblings. This requires informed casework assessment and decision-making. Since foster family boarding homes, including approved relative foster homes, and agency-operated boarding homes are considered in the same category under both federal title IV-E standards and State utilization review regulations (18 NYCRR 430.11), social services districts have some flexibility available in the "least restrictive" setting requirement. Siblings placed together in certified foster homes, approved relative homes or in agency-operated boarding homes are considered to be in least restrictive settings.

However, the presumption for the placement of siblings together should not override the need for one or more of the siblings to be placed in a higher level of care; for example, when one of the siblings must be placed in congregate care or in an institution for medical, mental health, or behavioral reasons. In such cases, the assessment involving appropriate mental health or other health care professional consultants should be clearly documented in the case record to indicate that the health, safety or welfare of the children requires separation.

B. Placement With Relatives

The requirement for placement of siblings together extends to approved relative foster care placements. Placement together is presumed to be in the best interests of the children unless such placement is determined to be contrary to the health, safety or welfare of one or more of the children based on an assessment in consultation with appropriate professional staff. Factors to be considered must include, but are not limited to, age differences, health and developmental

differences, emotional relationships, individual service needs, attachment to separate families or locations, and continuity of environment.

However, such an assessment may indicate that separate placements with approved relatives can best preserve the emotional ties of extended family relationships if such placements provide opportunities for continuing interaction among the siblings. In such cases, separation of the children while retaining a familiar environment and/or close contact may be preferable to placement together in an unfamiliar environment with certified foster parents. The social services district is responsible for documentation of the specific reasons and process followed in making such a decision.

When reporting to the Family Court concerning the availability of appropriate relative placement for siblings taken into foster care, the social services district is responsible for ensuring that no recommendation for separation is made without the required assessment/consultation, considering the factors listed in the previous paragraph and in Section III. G. below. When there is no documented factor for separation of the siblings other than the fact that the children would be placed with relatives, only the court can determine that placing children separately with relatives is preferable in itself to the placement of siblings together in a certified foster home or agency operated boarding home.

C. Foster Parent Applications for Adoption

Section 421.19 of Department regulations requires that foster parents with whom children have been placed for 12 continuous months be notified when the children become freed for adoption and that an adoption application be taken if the foster parents wish to adopt the children.

In the case of siblings who in the past were placed separately in foster homes and now have become free for adoption, the social services district is responsible for determining, through a careful assessment process in consultation with appropriate professional staff, whether reunification and replacement would be contrary to the health, safety or welfare of one or more of the children. The factor of emotional attachment becomes an important consideration in such cases.

In the future, as Department policy and regulations are effectively implemented, separation of siblings without good cause should be virtually eliminated in foster care placements. Therefore, cases in which a foster family has the right of first preference in adopting a separated sibling -- but does not wish to adopt the other sibling(s) -- will occur infrequently. Until that time, authorized agencies must make case-by-case decisions based on the best interests of each of the separated siblings freed for adoption. A determination to retain the

separation of the children in different adoptive homes must be made after an assessment in consultation with other appropriate professionals, documenting that reuniting the children would be contrary to their best interests.

When no adoptive home is available for the placement of siblings together, six months may be considered a reasonable maximum timeframe for diligently searching to recruit such a family. It is recommended that authorized agencies and staff cooperate in developing and maintaining regular communication and contacts across county and agency boundaries in order to broaden the potential pool of prospective adoptive parents willing to accept siblings.

D. Visitation and Communication Among Siblings

Authorized agencies are responsible for ensuring that siblings who are placed separately in foster care or pre-adoptive placements, regardless of placement date, are able to maintain at least regular biweekly visitation and communication with each other as a minimum standard.

Biweekly visitation is required unless such visitation has been determined and documented to be contrary to the health, safety or welfare of one or more of the children or unless the siblings are placed at such a distance from each other that lack of geographic proximity precludes visitation. The law and regulations do not define the "lack of geographic proximity." Therefore, the agency supervising the placement will need to determine the best interests of the children in relation to available transportation, time, environment, and supervision. Extraordinary transportation costs are reimbursable as special payments. Certified foster parents, approved relative foster parents and prospective adoptive parents, as well as agency staff, are expected to cooperate in facilitating visits between siblings. However, the primary responsibility for arranging and overseeing visitation lies with the agency supervising placement of the children.

When visitation on a biweekly basis is determined to be contrary to the health, safety or welfare of one or more of the children or not possible due to lack of geographic proximity, then authorized agencies are responsible for ensuring that some form of regular biweekly contact, by telephone or mail, is maintained between siblings. The only exception to this rule is when an assessment/consultation determines that such communication would be contrary to the health, safety or welfare of one or more of the children.

When lack of geographic proximity is adequately documented as the reason for inability to follow the minimum biweekly visitation standard, an alternative visitation plan regularly scheduled in conjunction with other forms of communication is expected in order to meet the biweekly requirement.

E. Emergency Placements

In situations where children must be removed on an emergency basis from their homes and placement made immediately for the safety of the children, and no foster home is immediately available to care for the siblings together, the children may be placed separately on a temporary basis. Department regulations (section 431.10) previously required that the siblings be reunited within 60 days of the emergency placement separating them. However, Chapter 854 of the Laws of 1990 and the Department's revised regulations require that the siblings be reunited within 30 days unless reunification would be contrary to the health, safety or welfare of one or more of the children.

F. Recruitment for Siblings Placement

Local efforts to recruit foster and adoptive homes should include publicity concerning the need for homes willing to accept siblings. All agencies are encouraged to recruit homes able to serve siblings on an emergency basis in order to avoid separation in emergency placements. Agency staff persons meeting with community groups and foster care orientation and training sessions provide opportunities to discuss the need for foster and adoptive parents to care for siblings. Homefinding visits and interviews provide other opportunities to question prospective foster and adoptive parents regarding their willingness to care for siblings.

G. Assessments For Validating Separation

Department regulations require an assessment/consultation with other appropriate professional staff by the caseworker and/or supervisor in order to determine and document that placement together is contrary to the health, safety or welfare of one or more of the siblings (other than emergency placements for no more than 30 days). The regulations state (see sections 421.18 and 431.10) that the assessment is to be based on "consultation with, or an evaluation by, other professional staff, such as a licensed psychologist, psychiatrist, other physician, or certified social worker." Since the statutory standard for separation is the "health, safety or welfare" of the siblings, there is clearly a need for an assessment to include persons with specialized skills in medical, mental health or counseling fields. Agencies with in-house access to such specialists are not required to seek "outside" consultants. The caseworker's role is to confer with and to provide all available information in the case to the consultant(s) for review and consideration. Caseworkers and supervisors acting alone cannot make a decision for sibling separation except in temporary emergency placements for not more than 30 days.

Careful documentation of the assessment in the case record is essential to ensure that the agency has met all statutory and regulatory requirements related to siblings for court review purposes and for protection in possible cases of future court actions regarding the case.

Factors to be considered by those participating in the consultation/evaluation regarding sibling separation include, but are not limited to, the following, which are listed in Department regulations (sections 421.18 and 431.10):

1. Age differences - This should rarely be considered an important factor, but there are instances where an infant or toddler may have a teenage sibling, and in the judgment of professional consultants, the emotional health or welfare of one or more of the siblings would be better served in separate placements. For example, when a sibling or half-sibling is born long after an older sibling has been in care, the older child may have formed a strong emotional attachment to the placement family, and the foster or adoptive home is not able or willing to accept the infant for placement. In such cases a separation determination can be based only on the best interests of the children involved and only after a careful assessment/consultation.
2. Health and developmental differences - This factor requires an assessment by medical and counseling consultants and should be an important issue only when one or more siblings have severe disabilities or emotional or behavioral problems requiring specialized care in a program which is not appropriate for the other siblings.
3. Emotional relationship of the siblings to each other -- This factor, too, should rarely be considered a basis for separation and only when a mental health professional has documented that placement together would be detrimental to the emotional health, safety or welfare of one or more of the children.
4. Individual service needs - This factor allows for separation on the basis of the need for highly specialized and individualized care for one or more of the siblings. Such care may be needed for severe disabilities or medical problems, or severe emotional or behavioral problems requiring a different level of placement.
5. Attachment of individual siblings to separate families or locations - This may be a consideration when siblings were placed separately prior to implementation of the Department regulations promulgated in 1988. In cases of infant siblings born after the placement of an older sibling, or in cases where a child enters foster care at a later date than another sibling, the factor of bonding and attachment may be an important and valid point to be considered in assessing whether separation may be justified.
6. Continuity of environment standard - This factor, which is a federal as well as a state regulatory foster care placement standard relating to the safety and welfare of all the siblings, would rarely be a valid reason for separation. However, there may

be instances when one child's enrollment in a highly specialized school program or in a specialized neighborhood treatment center may be a consideration in determining that separation is justified for the health and welfare of that child. In addition, the continuity of environment standard may be a factor in the separation of siblings for placement in approved relative homes in close proximity and contact with each other. In such cases the maintenance of an extended family or neighborhood environment may be an important consideration in determining the best interests of the children.

Please Note: The Department regulations which became effective in 1988 allowed consideration of the factor of availability of foster and adoptive parents willing or able to accept siblings. This factor was deleted when the Department revised its regulations to comply with Chapter 854 of the Laws of 1990. Authorized agencies are now expected to make diligent efforts to recruit foster and adoptive parents willing to care for siblings. Separation of siblings may be justified only under the "health, safety or welfare" standard.

H. Department Monitoring

Monitoring of compliance with the statute and regulations will be accomplished through continuing Departmental oversight procedures, including periodic case reviews and sibling data collection reports.

IV. REQUIRED ACTION

The following actions must be taken by authorized agencies in order to comply with Chapter 854 of the Laws of 1990 and Department regulations regarding placement of siblings together in foster care and adoption:

A. Effective immediately, authorized agencies must place siblings together in foster care and adoption unless such placement is determined to be detrimental to the health, safety or welfare of one or more of the children. (See Section III of this directive.) This requirement for placement together is applicable whether siblings enter care at the same time or at different points in time. Retroactive application or disruption of existing placements when such disruptions would adversely affect the siblings in care is not the intent of this directive.

B. The authorized agency must presume placement of siblings together is in the best interests of the siblings UNLESS a careful assessment has determined that such placement would be contrary to the health, safety or welfare of one or more of the children.

This assessment must be based on consultation with, or an evaluation by, other professional staff, such as a licensed clinical psychologist, psychiatrist, other physician, or certified social worker.

Factors to be considered in the assessment must include, but are not limited to, the following: age differences, health and developmental differences, emotional relationships, individual service needs, attachment to separate families or locations, and continuity of environment.

Please note: For a discussion of the factors which must be taken into consideration in making a determination to separate the siblings, see Section III. G. of this directive.

C. When siblings must be removed from their homes in emergency situations, and no foster family home is immediately available to accept the entire sibling group, the children may be placed in separate homes. However, they must be reunited within 30 days unless placement together would be contrary to the health, safety or welfare of one or more of the children.

D. The procedures required for placement of siblings in approved relative (kinship) foster homes are the same as those required for placement in certified foster homes or prospective adoptive homes. In addition, there are requirements in Section 1017 of the Family Court Act to determine the availability of relatives to care for children coming before the court in child protective proceedings. Similar provisions exist for voluntarily placed children (see Sections 384-a and 392 of the Social Services Law). All applicable mandates must be considered in making placement decisions.

There may be situations where an assessment/consultation with appropriate professional staff determines that placement together would be contrary to the health, safety or welfare of one or more of the siblings if such placement means separation from an extended family environment. For example, two relative families are living in close proximity to each other, and each is willing to care for part of a sibling group and to maintain sibling contact. An assessment/consultation may determine that placement of the children together with a non-relative foster family with whom they have no ties is contrary to the emotional welfare of the children. In such cases, governing factors may include, but are not limited to, age, emotional relationships, attachments, the requirements for continuity of environment. However, separation of siblings solely for the purpose of placement with relatives is not permitted unless the court orders such placement. In the absence of such a court order, separate placements may occur only if the required assessment/consultation justifies the separation based on the health, safety or welfare of one or more of the children.

E. If siblings are placed apart, certified foster parents and approved relative foster parents must agree to cooperate with authorized agencies in providing or arranging for visitation and communication, but the authorized agency has primary responsibility for ensuring that such contacts occur.

1. Authorized agencies must ensure that, at a minimum, regular biweekly visitation is arranged for siblings who are placed separately UNLESS such visitation would be contrary to the health, safety or welfare of one or more of the children.

The law permits an exception for "lack of geographic proximity." This should be interpreted to mean a distance great enough to cause substantial hardship and cost for an agency responsible for facilitating visitation. Available transportation, public and private, time, environment, and supervision may also be appropriate considerations. Extraordinary transportation costs are reimbursable as special payments.

2. Authorized agencies must also facilitate communication among siblings on a regular basis unless such contact is determined to be contrary to the health, safety or welfare of one or more of the children. Forms of communication most commonly used would be letters, cards and notes, and telephone calls. Local telephone calls should not result in any increased cost to foster parents or agencies. Long distance calls require careful supervision and discussion between the foster parents and the supervising agency concerning available cost reimbursement as a special payment.

F. When a foster parent who has cared for one or more of a group of siblings for at least 12 months continuously wishes to adopt one or part of a group of siblings freed for adoption, the authorized agency must accept the application, but must inform the foster parent that the siblings are to be placed together in a prospective adoptive home. If the foster parent is unable or unwilling to accept the siblings together, the agency must make an assessment after consultation with appropriate professional staff regarding the best interests of the children. Placement together is presumed to be in the siblings' best interests unless such placement is determined to be contrary to the health, safety or welfare of the children based on an assessment of the factors discussed in Section III. G. above.

The best interests of the siblings must take priority over the foster parent right of preference in adoption. If an assessment indicates there is no basis for separation of the siblings other than foster parent preference, the agency must make a diligent effort to find another prospective adoptive home willing and able to accept the placement of siblings together. Six months may be considered a reasonable maximum timeframe for diligently searching to recruit such a family.

G. The authorized agency responsible for supervising the placement of the siblings in foster care or adoptive homes must document in the uniform case record that:

1. diligent efforts were made to place the siblings together unless such placement was determined to be contrary to the health, safety or welfare of one or more of the siblings;

2. before siblings were placed separately, an assessment justifying the separation was made in consultation with other named professional staff, and their findings, as recorded, justify separation on the basis of the health, safety or welfare of one or more of the children;

or

the court has ordered separate placement of the siblings in relative homes;

or

the court has ordered separate placement for purposes of adoption;

3. when siblings were placed separately, foster parents, prospective adoptive parents, and the siblings themselves (when age appropriate) were informed of the existence and location of all of the child's siblings;

4. arrangements were made for regular biweekly visitation, at a minimum, among separated siblings or reasons why such visitation is contrary to the health, safety or welfare of one or more of the children or is not possible;

5. arrangements for regular communication among separated siblings have been facilitated or reasons why such contact is contrary to the health, safety or welfare of one or more of the children.

V. SYSTEMS IMPLICATIONS

None.

VI. EFFECTIVE DATE

This directive is effective on May 15, 1992, retroactive to September 1, 1990, the effective date of Chapter 854 of the Laws of 1990. This directive also incorporates requirements in the Department regulations on siblings placement which became effective on July 26, 1988, and the amendments to those regulations which became effective on September 25, 1991.

Joseph Semidei
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Division of Family and
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