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Informational Letter

Transmittal:	08-OCFS-INF-10
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Child Welfare and Community Services
Date:	August 21, 2008
Subject:	Definition of an Authorized Agency, Chapter 107 of the Laws of 2007
Suggested Distribution:	Executive Directors of Voluntary Authorized Agencies Commissioners of Social Services Directors of Services
Contact Person(s):	See section IV
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Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
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I. Purpose

The purpose of this Informational Letter (INF) is to advise commissioners of departments of social services, executive directors of voluntary authorized agencies and their respective staff of the provisions of Chapter 107 of the Laws of 2007, amending section 371(10)(a) of the Social Services Law and section 405-a of the Business Corporation Law. This act became effective on June 1, 2007.

II. Background

Historically, *not-for-profit* corporations with the corporate authority to operate child care institutions have provided children in need with appropriate care and services. Up until June 1, 2007, the New York State Business Corporation Law §405-a also permitted a for-profit corporation, upon approval by the Office of Children and Family Services (OCFS), to include among its purposes in the corporation's certificate of incorporation, the authority to establish and operate an institution for the care of destitute, delinquent, abandoned, neglected or dependent children. The effect of Chapter 107 of the Laws of 2007 was to prohibit for-profit entities from receiving OCFS approval to operate such institutions as specified above.

III Program Implications Effect of Chapter 107 of the Laws of 2007

Chapter 107 clarifies the definition of agencies authorized to operate, manage, supervise or own agency boarding homes, group homes, family boarding homes and/or child care institutions. Such agencies are limited to governmental and not-for-profit agencies; for-profit agencies or organizations are excluded. After June 1, 2007 the law further prohibits OCFS to approve any for-profit corporation to include among its purposes the authority to care for children through the establishment or operation of an institution under New York State Business Corporation Law. The law further prohibits, after June 1, 2007, the approval by OCFS of any for-profit corporation to include among its purposes the authority to care for children through the establishment or operation of an institution under New York State Business Corporation Law §405-a.

Since OCFS had never issued an approval of the filing of a certificate of incorporation under Section 405-a of the Business Corporation Law prior to June 1, 2007, the change in law means, in effect, that no "for-profit" corporation may operate a child care institution in New York State.

IV Contact Information

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