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### Administrative Directive

<b>Transmittal:</b>	11-OCFS-ADM-12
<b>To:</b>	Commissioners of Social Services
<b>Issuing Division/Office:</b>	Strategic Planning and Policy Development
<b>Date:</b>	November 7, 2011
<b>Subject:</b>	<b>New Reporting Requirement for Direct Custodial Placements of Children With Relatives Through Article 10 of the Family Court Act</b>
<b>Suggested Distribution:</b>	Directors of Social Services Child Protective Services Supervisors Foster Care and Adoption Supervisors Staff Development Coordinators
<b>Contact Person(s):</b>	Any questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services:  Buffalo Regional Office- Dana Whitcomb (716) 847-3145 <a href="mailto:Dana.Whitcomb@ocfs.state.ny.us">Dana.Whitcomb@ocfs.state.ny.us</a> Rochester Regional Office - Karen Buck (585) 238-8200 <a href="mailto:Karen.Buck@ocfs.state.ny.us">Karen.Buck@ocfs.state.ny.us</a> Syracuse Regional Office- Dan Comins (315) 423-1200 <a href="mailto:Dan.Comins@ocfs.state.ny.us">Dan.Comins@ocfs.state.ny.us</a> Albany Regional Office- Kerri Barber (518) 486-7078 <a href="mailto:Kerri.Barber@ocfs.state.ny.us">Kerri.Barber@ocfs.state.ny.us</a> Spring Valley Regional Office- Raymond Toomer (845) 708-2498 <a href="mailto:Raymond.Toomer@ocfs.state.ny.us">Raymond.Toomer@ocfs.state.ny.us</a> New York City Regional Office- Patricia Beresford (212) 383-1788 <a href="mailto:Patricia.Beresford@ocfs.state.ny.us">Patricia.Beresford@ocfs.state.ny.us</a> Native American Services- Kim Thomas (716) 847-3123 <a href="mailto:Kim.Thomas@ocfs.state.ny.us">Kim.Thomas@ocfs.state.ny.us</a>
<b>Attachments:</b>	No
<b>Attachment Available Online:</b>	N/A

## Filing References

Previous ADMs/INFs	Releases Canceled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
11-OCFS-ADM-03		18 NYCRR Part 436	SSL §§ 458-a—458-f (Part F of Chapter 58 of the Laws of 2010) FCA §§1017, 1027 and 1055		

### I. Purpose

The Purpose of this Administrative Directive (ADM) is to provide a new reporting requirement to Local Departments of Social Services (LDSSs) regarding children placed directly in the legal custody of a relative through Article 10 of the Family Court Act (FCA). This new information is required as part of the reporting requirements that were added by Part F of Chapter 58 of the Laws of 2010 (Chapter 58), which implemented the Kinship Guardianship Assistance Program (KinGAP).

### II. Background

Chapter 58 added to Article 6 of the Social Services Law (SSL) a new Title 10, entitled “Kinship Guardianship Assistance Program,” and amended the FCA and the Surrogate’s Court Procedure Act setting forth standards and procedures relating to the application for and issuance of letters of guardianship to prospective relative guardian(s).

On April 1, 2011, New York State implemented KinGAP, which is a new program to support kinship guardianship placements for children in foster care. Detailed information regarding this program can be found in 11-OCFS-ADM-03 *Kinship Guardianship Assistance Program (KinGAP)*, as well as in the materials located on the KinGAP page of the OCFS website at:

<http://www.ocfs.state.ny.us/kinship/kingap.asp>

In addition, Chapter 58 sets forth reporting requirements for the Office of Children and Family Services (OCFS) with regard to KinGAP and some additional relevant data. No later than February 1, 2012, and each year thereafter, OCFS must report certain information to the Governor, Speaker of the Assembly, Temporary President of the Senate, the Minority Leader of the Senate, the Chair of the Assembly Committee on Children and Families, and the Chair of the Senate Committee on Children and Families, detailing the implementation and progress of KinGAP and some additional relevant data.

This information is to be provided on a yearly basis and includes, but is not limited to:

- The total number statewide, and number of children in each LDSS, who have entered into KinGAP within that yearly reporting period;

- The total number of children who have entered into KinGAP since implementation;
- The total number of applications statewide, and number of KinGAP applications in each LDSS;
- The total number of KinGAP applications denied and accepted by an LDSS;
- The ages of children entering into KinGAP;
- The number of fair hearings requested by KinGAP applicants and recipients, including the reasons for such hearing requests;
- The number of fair hearings held, the time frames within which decisions were rendered, and the number of fair hearings resolved in favor of the aggrieved party and the LDSS;
- Changes since implementation of KinGAP in the percentage of foster care children adopted, reunified, and released to other permanency outcomes;
- **Changes since implementation of KinGAP in the percentage of children directly placed with relatives under Article 10 of the FCA;** and
- Changes in the average length of stay in foster care.

All except the item highlighted above are currently reported by LDSSs to OCFS through the Child Care Review Service (CCRS), or are obtained through the OCFS fair hearing system. The systems section of 11-OCFS-ADM-03 listed and described new WMS and CCRS codes that relate specifically to KinGAP, including CCRS legal and movement codes. The one reporting area that OCFS does not have data on is the reporting of the percentage of children placed directly in the legal custody of relatives under Article 10 of the FCA. There has been the ability to report an Article 10 non-foster care custodial placement (CCRS disposition code 62), but there has not been the ability to separate out relatives from non-relatives as required by Chapter 58. This ADM provides the coding information to LDSSs on how to enter data about children who are placed directly in the legal custody with a relative under Article 10 of the FCA.

### III. Program Implications

Section 12 of Chapter 58 created the requirement for OCFS to report on KinGAP implementation to the Governor and Legislature. In addition to statistical information related to KinGAP implementation, there is a requirement that OCFS include in the report statistical information on other populations in relation to the number of children who enter a kinship guardianship assistance arrangement. One of these other populations is the number of children who are placed directly in the legal custody of a relative pursuant to Article 10 of the FCA. Please note that Article 10 direct placements are generally subject to supervision by the LDSS. In addition, in all such placements, children must have permanency hearings in accordance with Article 10-A of the FCA until permanency is achieved. In addition to this direct placement group, other populations that must be included in the OCFS report include numbers of children who are adopted, reunified or released to other permanency options.

*Note: The reporting requirement addressed in this release does not include kinship foster care where LDSS has legal custody of the child and boards the child with an*

*approved relative foster parent, nor does it include instances where the Family Court places the child with a relative in accordance with Article 6 of the FCA. The reporting requirement addressed in this release exclusively applies where the Family Court places a child into the legal custody of a relative in accordance with Article 10 of the FCA.*

#### **IV. Required Action**

Effective April 1, 2011, LDSSs must report to OCFS via CCRS the information needed for OCFS's annual report to the Governor and Legislature that must be submitted by February 1, 2012, and annually thereafter. The initial report will cover the reporting period of April 1, 2011, through December 31, 2011.

There are already codes in place for most of the reporting requirements that are needed for the report. Procedures for the reporting of that information will not change by this release. LDSSs must continue entering all CCRS codes that are currently required of them.

As a result of this release, LDSSs are required to report via CCRS code entry when a child is directly placed in the legal custody of a relative through Article 10 of the FCA.

A new legal dispositional code for Direct Custody Transferred to/Continued with Relative (88) has been created for CCRS to identify for OCFS when a child is placed directly in the legal custody of a relative through Article 10 of the FCA. In addition, a new legal dispositional code Direct Custody Transferred to/Continued with Non-Relative (89) has been created to identify Article 10 direct custodial placements with non-relatives. Prior to the creation of these codes, Article 10 custodial placements were reported by using the dispositional code Custody Transferred to Relative or Non-Relative (Non-Foster Care) (62), which was used for both relative and non-relative custody. Effective, November 7, 2011, code 62 will no longer be a valid entry. Entries prior to November 7, 2011 of code 62 for an Article 10 direct custody placement with relatives or non-relatives will be retained on the system.

LDSSs must also report via CCRS when an Article 10 direct custodial placement with a relative or non-relative is continued by the court and when it has concluded. The systems instructions below provide information on how to encode this information.

#### **V. Systems Implications**

##### **CCRS**

To report an initial direct custodial placement through Article 10 of the FCA, the LDSS must record in CCRS the legal activity code of L300 with modifier A equal to Article 10-Abuse/Neglect (04) and modifier B or C equal to a disposition of

- Direct Custody Transferred to/Continued with Relative (88) for a relative placement; or
- Direct Custody Transferred to/Continued with Non-Relative (89) for a non-relative placement.

In addition, where ordered by the court, any other applicable disposition code such as Court Ordered Supervision (55) or Court Ordered Services (56) can also be entered in modifier B or C. Modifier D is to be equal to the Date Certain/Next Hearing Date.

Permanency hearings (FCA 1089) for this population must be recorded in CCRS through the legal activity code L300 with a modifier A equal to 1089 Permanency Review (21) and, if the Article 10 direct custodial placement continues, modifier B or C equal to a disposition of

- Direct Custody Transferred to/Continued with Relative (88); or
- Direct Custody Transferred to/Continued with Non-Relative (89)

In addition, Modifier B or C can be any other applicable disposition code, such as Court Ordered Supervision (55) or Court Ordered Services (56), and modifier D equal to the Date Certain/Next Hearing Date.

If the placement arrangement has changed, to report the end of the Article 10 direct custodial placement, the LDSS must record the legal activity code of L300, modifier A equal to Article 10-Abuse/Neglect (04) or 1089 Permanency Review (21), and modifier B or C equal to the appropriate dispositional code to reflect the change in status from the Article 10 direct custodial placement to the current status such as Return Child to Parent (46), Article 6 Custody/Guardianship Assigned to Relative or Non-Relative (Non-Foster Care) (63)<sup>1</sup>, Care and Custody to Local Social Service District (43), Return Child to Guardian (47), Return Child to Relative (48), or Another Planned Permanent Living Arrangement (49).

***Note: The 88 and 89 codes can only be used when the legal activity code is L300 and modifier A is either 04 or 21.***

Effective November 7, 2011, the use of dispositional code 62 – Custody Transferred to Relative or non-Relative (Non-Foster Care) will no longer be allowed. Entries of the dispositional code 62 prior to that date, will remain in CCRS. As of November 7, 2011, code 88 or 89 must be used as appropriate. OCFS will be aggregating data for the report to the Governor and Legislature, based on these codes.

See General Information System (GIS) message 11-013 for further information on these changes. The CCRS Coding Guide has also been updated to reflect these changes. Both the coding guide and the GIS message can be found on the OCFS website at <http://ocfs.state.nyenet.it/GeneralResources/GeneralResourcesDefault.asp>

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<sup>1</sup> LDSSs are reminded to continue to use dispositional code 63 for **Article 6** guardianship cases. In addition, code 63 was recently updated to include Article 6 custody cases – Custody/Guardianship Assigned to Relative or Non-Relative (Non-Foster Care). Please see the updated CCRS coding guide for more information on this and other CCRS coding changes.

**WMS**

There are no changes to WMS.

**CONNECTIONS**

In CONNECTIONS the worker must continue to give the child a program choice of Non-LDSS Custody-Relative/Resource Placement and Permanency Planning Goal of one of the following:

- 9a. Reunite with Parent
- 9b. Legalize Living Arrangement with Relative/Resource
- 9c. Permanent Living Arrangement (Non-Guardianship/Non-Custodian)

**VI. Effective Date**

The reporting requirements addressed in this ADM are effective retroactively to April 1, 2011. However, the 88 and 89 dispositional codes to separately report the required information were not available until November 7, 2011.<sup>2</sup>

*/s/ Nancy Martinez*

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**Issued By:**

Name: Nancy Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

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<sup>2</sup> If dispositional code 62 has already been entered into CCRS prior to November 7, 2011, the LDSS needs to do nothing further. If code 62 has not yet been entered, either dispositional code 88 or 89 must be used beginning November 7, 2011.