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| LOCAL COMMISSIONERS MEMORANDUM |  
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Transmittal No: 92 LCM-161

Date: October 21, 1992

Division: Services & Community  
Development

TO: Local District Commissioners

SUBJECT: Required Procedures For Least Restrictive Placement of  
Children in Foster Care: Chapter 267 of the Laws of 1991

ATTACHMENTS: None

The purpose of this memorandum is to inform you of the Department's plans for implementing Chapter 267 of the Laws of 1991. Chapter 267 reinforced the Department's longstanding requirement for placing children entering foster care in the least restrictive setting appropriate for the individual child. The chapter, which amended Section 398 (6)(g)(1) of the Social Services Law, also emphasizes the need for careful documentation when a child is placed in any level of care other than a foster family boarding home; i.e., in a group home, group residence or institution.

The Department initially proposed regulations to implement the new law and published them for comment. However, many of the social services districts submitting comments on the proposed regulations expressed the belief that the requirements of Chapter 267 could be met using existing procedures. Following a review of options, and supportive of mandate relief for local districts whenever possible, we have withdrawn the proposed regulations. As a result, the Administrative Directive, "Required Report to the Department on Foster Child Placement in Group or Institutional Care," which had been entered into the clearance process, has also been withdrawn.

In order to meet the intent of Chapter 267, districts must ensure rigorous adherence to the standards set forth in 18 NYCRR 430.11(d) under the heading, "Standard for appropriate level of placement." Clearly, the Department has long required each child entering care to be placed in a foster family boarding home, including a relative home, unless the district can justify placement at a higher level of care because of special circumstances involving the child's health, safety or welfare.

Each foster child's placement, with accompanying demographic information, must be reported in a timely manner to the Child Care Review Service as required by Section 442 of the Social Services Law. Placement information must also be documented in the Uniform Case Record as required by 18 NYCRR parts 428 and 430. Administrators and supervisors are urged to review these regulatory standards and requirements with staff to ensure satisfactory compliance.

In addition to reviewing the CCRS reports produced by the Department on level of placement and to conducting periodic Utilization Reviews, Department staff will periodically review case records to determine conformance with Chapter 267. We will discuss with district staff any assistance needed for recruitment and retention of a sufficient number of foster homes to care for the district's foster children.

Thank you for your continuing vigilance in maintaining New York's high standards for placement of children who must be cared for within the foster care system.

If you have any questions on this matter, please contact your Regional Office Director:

Albany: John O'Connor, (518) 432-2751	rof015
Buffalo: Linda Brown, (716) 847-3145	89d421
Metropolitan: Fred Cantlo, (212) 804-1202	0fg010
Rochester: Linda Kurtz, (716) 238-8200	0fh010
Syracuse: Jack Klump, (315) 428-3235	89w005

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James F. Purcell  
Associate Commissioner  
Office of Family and Children  
Services