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Informational Letter

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| Transmittal: | 08-OCFS-INF-03 |
| To: | Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies Directors of Adoption Agencies |
| Issuing Division/Office: | Strategic Planning and Policy Development |
| Date: | March 24, 2008 |
| Subject: | Definition of "State" for the Purpose of Out-of-State SCR Checks |
| Suggested Distribution: | Directors of Social Services Foster Care Staff Adoption Supervisors Homefinding Supervisors Staff Development Coordinators |
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| Attachments: | No |
| Attachment Available Online: | N/A |

Filing References:

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
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| | | 18 NYCRR Parts 421 and 443 | § 47 of The General Construction Law; §471(a)(20) (C) of the Social Security Act; 45 CFR 1355.20 | | |

I. Purpose

The purpose of this Informational Letter (INF) is to inform social services districts and voluntary authorized agencies of the clarification recently issued by the federal Administration for Children and Families (ACF) of the definition of “state” for the purpose of conducting out-of-state state central register checks on persons required to have such checks and who have lived in a state other than New York State within the previous five years prior to application. The definition of “state” includes: the District of Columbia, Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa.

II. Background

The federal Adam Walsh Child Protection and Safety Act of 2006, requires that a licensing or approving agency request child abuse and maltreatment information maintained by the child abuse and maltreatment registry administered in each state where a person who applies for certification or approval as a foster or adoptive parent, or any other person over the age of 18 who resides in the home of such an applicant, lived during the five years preceding the application for certification or approval. The federal requirements were implemented by the Office of Children and Family Services in regulatory amendments made to 18 NYCRR Parts 421 and 443.

III. Program Implications

A recent addition to the ACF Policy manual contains the following clarification.

Question: Do States have to request information from a "State" maintained child abuse and neglect registry of a U.S. Territory in which a prospective foster or adoptive parent has resided within the last five years in accordance with section 471(a)(20)(C)(i) of the Social Security Act (the Act)?

Answer: Yes. For the purposes of title IV-E, a "State" is defined in 45 CFR 1355.20 as the 50 States, the District of Columbia, Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa. As such, States have to request child abuse and neglect information pursuant to section 471(a)(20)(C)(i) of the Act of any of these territories that maintains a child abuse and neglect registry. However, only those Territories that have an approved State plan under title IV-E are obligated to comply with an incoming request pursuant to section 471(a)(20)(C)(ii) of the Act.

- **Date/Source:** 12/6/2007
- **Legal and Related References:** Social Security Act - section 471(a)(20)(C); 45 CFR 1355.20

Please note that section 47 of the General Construction Law of the State of New York defines "State" as follows: "The term state, when used generally to include every state of the United States, includes also every territory of the United States and the District of Columbia." Consequently, the federal interpretation of "State", consistent with New York State law, must be used with respect to compliance with the standards for inquiry of out-of-state child abuse and maltreatment registries of applicants for certification or approval as foster or adoptive parents and other adult members in the household of the applicant. Social services districts and voluntary authorized agencies must immediately implement this federal clarification.

/s/ Nancy W. Martinez

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