



Office of Children and Family Services

Andrew M. Cuomo
Governor

52 WASHINGTON STREET
RENSSELAER, NY 12144

Sheila J. Poole
Commissioner

Administrative Directive

Transmittal:	20-OCFS-ADM-18				
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies				
Issuing Division/Office:	Strategic Planning and Policy Development Child Welfare and Community Services				
Date:	October 14, 2020				
Subject:	Kin-First Firewall Practice				
Suggested Distribution:	Directors of Social Services Child Welfare Supervisors Foster Care Supervisors Foster Care Home Finders Child Protective Services Supervisors				
Contact Person(s):	See section V.				
Attachments:	Kin-First Firewall FAQ (<i>Updated 3/1/21</i>)				
Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
05-OCFS-INF-05 15-OCFS-ADM-01 16-OCFS-ADM-20 18-OCFS-ADM-23 20-OCFS-ADM-08		18 NYCRR 430.11 (c)(4) 18NYCRR 443.1(h) 18 NYCRR 443.3(16) 18 NYCRR 443.3(a) 18 NYCRR Part 446.2(a_	FCA §1017		

I. Purpose

The purpose of this Administrative Directive (ADM) is to inform local departments of social services (LDSSs) and voluntary agencies (VAs) of the requirement to establish a kin-first firewall practice to increase safe and appropriate kinship placements for children. The kin-first firewall practice must address both instances of initial removal and of children being moved while in care. Kin-first firewalls are intended to make kinship placements the presumptive placement for children, thereby expanding family-based care and helping LDSSs and VAs prepare for Family First Prevention Services Act (FFPSA) implementation.

II. Background

Kinship caregivers are already valuable resources in child welfare. When appropriate, safe and in the child's best interests, placements with kin are preferred for children who must be removed from their homes because kin are familiar to the child and help maintain the child's family connections. The benefits to placing children with kin have been researched and well documented.

The FFPSA was enacted as part of the Bipartisan Budget Act on February 9, 2018. The FFPSA reforms federal financing to prioritize family-based foster care over congregate style residential care by limiting federal reimbursement for certain congregate residential placements. The goal of the FFPSA is to maintain children in the least restrictive setting appropriate for their needs, which is most often a foster boarding home. A lack of foster boarding homes is not an acceptable reason for placing children in congregate care under the FFPSA. Therefore, to maintain federal funding, the FFPSA creates the need for an increase in available foster boarding homes. While efforts are underway to increase recruited foster homes, these efforts alone cannot support what the FFPSA requires. Expanding kinship care helps fill the need, both by creating more home-based care and by preserving recruited foster homes for children who do not have kin resources, as well as for children who can be stepped down from congregate care placements that may no longer meet the child's needs.

A kin-first firewall policy is a practice intended to increase safe and appropriate kinship placements. It requires a higher level of review to verify that all viable options have been explored to achieve a kinship placement before a non-kinship placement is made, thereby making kin the presumptive placement option when a child is initially removed or experiences movements while in foster care.

This ADM provides information and guidance around establishing a kin-first firewall practice. This practice was tested in successful pilots by LDSSs that experienced significant increases in kinship placements. In 2018, each LDSSs and VA was required to develop a kinship policy that was submitted to the New York State Office of Children and Family Services (OCFS). This ADM includes required review of each current kinship policy and, if the policy does not include a kin-first firewall practice, such policy must be amended to include this practice.

III. Program Implications

Kin-First Firewall: Exhausting All Efforts to Achieve Kin Placement

To further promote kinship placements, each LDSS and VA must review their current kinship policy that was submitted to OCFS regional offices. LDSSs and VAs received correspondence on Feb. 5, 2018 and June 4, 2018 providing direction and guidance for the submission of the kinship policies by July 31, 2018. LDSSs and VAs must amend the policy to include a kin-first firewall practice if such a practice is not already included.

The terms kin and kinship as used in this ADM are the same as the regulatory definition of relative:¹

¹ 18 NYCRR 443.1(h)

- An adult who is related to the parent(s) or stepparent(s) of a child through blood, marriage, or adoption to any degree of kinship
- an adult with a positive relationship to the child or child's family including but not limited to a child's godparent, neighbor, family friend
- an unrelated person where placement with such person allows halvesiblings to remain together in an approved foster home, and the parents or stepparents of one of the halvesiblings is a relative of such person

While kin are the first choice of placement, LDSSs and VAs must determine that such placements are safe and in the best interest of the child. The following are examples of ways children can enter a kinship placement:

- Kinship foster care
- A direct custody placement order (through a Family Court Act 1017 order or N-Docket)
- Article 6 custody or guardianship

As always, efforts must be made to avoid placement altogether by maintaining the child in the home with prevention services whenever it is safe and, in the child's best interests to do so. Required activities, such as efforts to locate any non-respondent parent, must also continue. Contact with the non-respondent parent continues to be important. Even if the non-respondent parent cannot provide care to the child, he or she may provide valuable information about potential kinship resources that might otherwise be unknown. This may assist in reducing the frequency in which a kin-first firewall policy procedure is needed, as such procedure is not necessary if the first placement is a kinship placement.

All kin-first firewall practices require secondary-level critical reviews of efforts made to achieve a kinship placement. Such secondary-level reviews are required in the event a non-kinship placement is sought both at the initial removal and any time there is a movement in care. The approval of a non-kinship placement by the secondary reviewers must be based on a determination that all possible and appropriate efforts to achieve a kinship placement have occurred, and that despite these efforts no kinship placement is available or appropriate. Secondary-level reviews must be conducted by one or more persons in a supervisory or management level role.

As part of the kin-first firewall review, the reviewers must identify any missing steps or actions on the part of the LDSS or VA to avoid placement or find a kinship resource. If missing actions are identified, the secondary reviewer(s) must direct staff to take any possible and appropriate efforts that have not been taken to identify, notify, and engage potential kinship resources and to remove barriers to kinship placement. Barriers may include challenges with the identified kin resource being able to meet the approval or certification requirements, lack of financial resources, or logistical issues in meeting the needs of the child. LDSSs and VAs are encouraged to think creatively about ways that such challenges can be overcome (see *Kin-First Firewall FAQs*, #5). All efforts directed by the secondary reviewers must take place before a non-kinship placement may be approved.

A kin-first firewall practice both at the time of removal and any time there is a movement in care promotes both initial kinship placement and the ongoing search and engagement of kin. These efforts will not only increase kinship placements but also the number of kinship

support resources available for children in care. A movement to or in care includes, but is not limited to, the following changes in placement:²

- 1017 direct custody placement to non-kinship foster care setting
- Foster boarding home to another foster boarding home
- Foster boarding home to congregate care setting
- Congregate care setting to foster boarding home

Ongoing efforts should be made to identify, locate, and engage kin for children in non-kinship placements. These efforts should be reviewed periodically and/or at critical case junctures and guidance provided to caseworkers on additional efforts that can and should be made to engage the child's kin.

IV. Required Actions

LDSSs and VAs must develop a kin-first firewall practice and create a written description of such practice by taking the following steps:

1. Review the kinship policy that was previously submitted to the respective OCFS regional office. LDSSs and VAs received correspondence on Feb. 5, 2018 and June 4, 2018 providing direction and guidance for the submission of the kinship policies by July 31, 2018.
2. Determine whether the kinship policy includes a kin-first firewall practice, as outlined in this ADM.
3. If the kinship policy includes a kin-first firewall practice, the LDSS or VA must notify the regional office that this practice is in the current kinship policy and indicate when the practice was implemented.
4. If the kinship policy does not include a kin-first firewall practice, or if the written description does not include all the necessary elements, amend the kinship policy to include all such information.
5. Submit the amended kinship policy to the regional office no later than 3 months after the release of this ADM. Regional offices will review the kinship policies submitted by LDSSs and VAs to determine whether the written description of the kin-first firewall practice contains all the required elements.

The written description of the kin-first firewall practice must include a description of how the following required steps will be implemented:

1. Staff involved in placing a child initially or at a subsequent movement in care must make all possible and appropriate efforts to engage kin resources and achieve a kinship placement that is safe and in the child's best interest.
 - The written description must, at a minimum, include the efforts that will be made to identify, notify, and engage kinship resources.
2. If a kinship placement is not possible, staff making the placement decision must make a non-kinship placement request to secondary reviewer(s) (may be verbal or written).
 - The written description must, at a minimum, include the process for making a non-kinship placement request.
3. The secondary reviewer(s) must verify whether all possible and appropriate efforts have been made to achieve kinship placement. This should include reviewing the case

² Respite is not considered a change in placement for the purpose of conducting a kin-first firewall.

record, as well as inquiring about what conversations were held with the parents, collateral contacts, and with the child (if age and developmentally appropriate) to gain information about additional kinship resources. (see *Kin-First Firewall FAQs* for required actions and recommended strategies).

- The written description must, at a minimum, include the protocol for secondary-level review of non-kinship placement requests, including a staffing description of the reviewer(s) and how efforts to achieve kinship placements will be evaluated.
4. Prior to approving the non-kinship placement request, the secondary reviewer(s) must identify and direct any additional actionable steps for identifying and locating kin and provide solutions and supports for removing any kinship placement barriers.
 - The written description must, at a minimum, include how the need for additional efforts will be evaluated and directed including examples of additional strategies that will be utilized to achieve kinship placements.
 5. The non-kinship placement request would be granted only when all possible and appropriate efforts to place the child with kin are fully exhausted.
 - The written description must verify this step as part of the kin-first firewall process.

Efforts made to achieve kinship placement must continue to be documented in the child's case record. Such documentation must include when a non-kinship placement request is made, and any additional efforts directed during the kin-first firewall review process. The decision to approve or disprove the non-kinship placement request must be documented in CONNECTIONS in progress notes.

V. Contacts

Any questions concerning this release should be directed to the appropriate regional office, Division of Child Welfare and Community Services:

Buffalo Regional Office - Amanda Darling (716) 847-3145

Amanda.Darling@ocfs.ny.gov

Rochester Regional Office – Christopher M. Bruno (585) 238-8201

Christopher.Bruno@ocfs.ny.gov

Syracuse Regional Office - Sara Simon (315) 423-1200

Sara.Simon@ocfs.ny.gov

Albany Regional Office - John Lockwood (518) 486-7078

John.Lockwood@ocfs.ny.gov

Westchester Regional Office - Sheletha Chang (845) 708-2498

Sheletha.Chang@ocfs.ny.gov

New York City Regional Office - Ronni Fuchs (212) 383-4873

Ronni.Fuchs@ocfs.ny.gov

Native American Services - Heather LaForme (716) 847-3123

Heather.LaForme@ocfs.ny.gov

VI. Effective Date

This policy is effective immediately.

/s/ Thomas R. Brooks

Issued by:

Name: Thomas R. Brooks

Title: Deputy Commissioner

Division/Office: Strategic Planning and Policy Development

/s/ Lisa Gharthey Ogundimu

Issued by:

Name: Lisa Gharthey Ogundimu

Title: Deputy Commissioner

Division/Office: Child Welfare and Community Services