
INFORMATIONAL LETTER

TRANSMITTAL: 96 INF-24

TO: Commissioners of
 Social Services
 Executive Directors of
 Foster Care Agencies

DIVISION: Services &
 Community
 Development

DATE: July 23, 1996

SUBJECT: Federal Requirements for Children Placed in Foster
 Care Settings Located Out of State

SUGGESTED
 DISTRIBUTION: Directors of Services
 Foster Care Supervisors

CONTACT PERSON: Questions concerning this release should be
 directed to the appropriate Regional Office
 of Family and Children's Services.

BRO - Linda Brown (716) 847-3145 ID: 89D421
 RRO - Linda Kurtz (716) 238-8201 ID: 0FH010
 SRO - Jack Klump (315) 423-1200 ID: 89W005
 ARO - Bill McLaughlin (518) 432-2751 ID: 0FN010
 MRO - Fred Levitan (212) 383-1788 ID: 72W035

ATTACHMENTS: None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
85 ADM-22			SSL 392.6(g) FCA 1055-a.8		

This is to inform you of three federal requirements pertaining to foster children placed out of State that must be complied with as a condition of New York State's continued eligibility for Title IV-E and Title IV-B funding. While out-of-State placements are generally not encouraged for program and cost reasons, there may be instances when such placements are unavoidable or possibly preferred. These requirements are:

- _ that the case plan for a child placed in a foster family home or child care institution a substantial distance from the home of the parents, or in a different State, set forth the reasons why the placement is in the best interests of the child, and
- _ if the child has been placed in foster care in a State outside the State in which the child's parents are located, an agency caseworker, of either State, must visit the foster home or institution no less frequently than every 12 months and submit a report on the visit to the State agency of the State where the home of the child's parents is located, and
- _ that dispositional hearings must determine whether an out-of-State placement continues to be appropriate and in the best interests of the child

Our belief is that there are long-standing State administrative requirements that necessitate that the first two federal requirements be met. As it concerns the federal requirement pertaining to the finding at a dispositional hearing that an out-of-State placement "continues to be appropriate and in the best interests of the child", State law reflects this requirement but not in every possible applicable instance. For example, Section 392.6(g) of the Social Services Law and Section 1055-a.8 of the Family Court Act require such a determination for children who are legally free and children whose voluntary placement is being reviewed by the Court. However, for the small number of abused and neglected children placed out of State who are not legally free, there is no existing explicit State statutory requirement that the Court reach a determination, although it is presumed that the Court does review whether the out-of-State placement continues to be appropriate and in the child's best interests.

It is therefore necessary whenever your staff is involved in a dispositional hearing involving a foster child placed out of State that they request the Court to reach a determination that such placement is appropriate and in the child's best interests. Additionally, they should ask the judge to place this determination in the court order.

Social services districts are responsible for meeting the requirements of the Interstate Compact Law whenever the transfer of a child to or from another State is contemplated.

Rose M. Pandozy
Deputy Commissioner
Services and Community Development