



**New York City Children's Services**

Division of Policy and Planning  
150 William Street, 18th Floor  
New York, NY 10038

John B. Mattingly  
*Commissioner*

Belinda M. Conway  
*Executive Deputy  
Commissioner for  
Operations*

**To:** Children's Services Staff

**From:** John B. Mattingly 

**Date:** July 1, 2010

**Re:** Recognition of Legal Same Sex Marriages

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Children's Services is committed to ensuring that our staff and provider agency staff show respect for every staff, child, family, community member and foster family with whom we come into contact. As part of this commitment, Children's Services requires all staff and providers to recognize legal same-sex marriages when relevant in our dealings with staff, clients, families and others.<sup>1</sup> These guidelines are effective immediately and are expected to be utilized when working with couples who describe themselves as married and have the documentation to prove it.

The attached NYS Office of Children and Family Services (OCFS) Administrative Directive entitled *Recognizing Legal Same Sex Marriages*, articulates that statutory and regulatory provisions referring to "husband" "wife" "married couples" and "spouses" must be interpreted to include same-sex spouses and couples in marriages that have been performed in other jurisdictions (nationally and internationally).

In order to become compliant with this guidance all Children's Services divisions are asked to conduct an inventory of the forms that are used to document client and staff information to ensure that the language on these forms accommodates same-sex specific language such as "parent" instead of "mother/father" and "spouse" instead of "husband/wife".

Each assigned divisional liaison will be responsible for compiling a list of all the forms that originate from respective divisions and are used both internally and externally to collect case specific information.<sup>2</sup> This list will also bring to attention forms that have not been assigned a form number by the Forms Management Unit and assist in the updating of the division's inventory of forms which are posted and accessed via DocuShare.

Attachment 2 provides a list of all Children's Services staff that have been delegated as the divisional liaisons who shall communicate with ACS Administrative Services Forms Management Unit staff Tahesha Mouzon. Ms. Mouzon is charged with making the necessary modifications to

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<sup>1</sup> According to 09-OCFS-ADM-07 all staff are required to construe marriage related terms in a manner that recognizes legal same-sex marriage unless prohibited by another provision of law.

<sup>2</sup> Case-specific information is that which pertains to ACS staff or to children and families receiving services by ACS and our provider agencies. Some examples are names and gender of staff or children and families, relationship, case or case identification numbers, addresses, social security numbers, allegations of abuse or neglect, and other related information.

forms and will work with assigned liaisons to review and implement the required changes. She can be reached at (212)-341-2747 or at [Tahesha.Mouzon@dfa.state.ny.us](mailto:Tahesha.Mouzon@dfa.state.ny.us).

For further information and guidelines on this topic please refer to Attachment 1.



David A. Paterson  
Governor

NEW YORK STATE  
OFFICE OF CHILDREN & FAMILY SERVICES  
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Gladys Carrión, Esq.  
Commissioner

### Administrative Directive

<b>Transmittal:</b>	09-OCFS-ADM-07
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Division of Legal Affairs
<b>Date:</b>	March 20, 2009
<b>Subject:</b>	<b>Recognition of Legal Same-Sex Marriages</b>
<b>Suggested Distribution:</b>	Directors of Services Foster and Adoptive Licensing/Approving Staff Child Protective Services Supervisors Child Welfare Supervisors Staff Development Coordinators CONNECTIONS Implementation Coordinators Domestic Violence Programs Detention Programs Runaway and Homeless Youth Programs
<b>Contact Person(s):</b>	Kathryn Mazzeo (518) 474-3333, Kathryn.Mazzeo@ocfs.state.ny.us
<b>Attachments:</b>	No
<b>Attachment Available Online:</b>	No

#### I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSS), voluntary authorized agencies, and other service providers of the implications of the February 1, 2008, decision of the New York State Supreme Court, Appellate Division, Fourth Department, *Martinez v. County of Monroe*, 50 A.D.3d 189 (4th Dep't 2008). The Court held that same-sex marriages legally performed in other jurisdictions are "entitled to recognition in New York in the absence of express legislation to the contrary" (*Martinez*, 50 A.D.3d at 193).

The *Martinez* decision is consistent with other state court decisions such as *Godfrey v. Spano*, 15 Misc. 3d 809 (Sup. Ct. Westchester County 2007) and *Funderburke v. N.Y. State Dep't of Civil Service*, 49 A.D.3d 809 (2d Dep't 2008). In addition, the extension of such recognition is also consistent with State policy. For example, in April 2007, the Department of Civil Service extended recognition to same-sex spouses in legal marriages from other jurisdictions for purposes of spousal benefits under the New York State Health Insurance Program.

Accordingly, the Governor's Office has required state agencies to review their policies and interpretations of relevant statutes and regulations, and construe marriage-related terms in a manner that recognizes legal same-sex marriages, unless prohibited by another provision of law.

## II. Background

Various provisions of the Domestic Relations Law (DRL), Family Court Act (FCA), Social Services Law (SSL), and regulations of the Commissioner of the Office of Children and Family Services (OCFS) contain words such as marriage, married, spouse, husband and wife. Such statutory and regulatory language must be interpreted to include legal same-sex marriages and spouses, as appropriate. Currently, same-sex marriages are legally performed in Canada, South Africa, Spain, Belgium, the Netherlands, Connecticut, and Massachusetts. Same-sex marriages were legally performed in California from May 15, 2008, until November 4, 2008.

## III. Program Implications

There are numerous statutory and regulatory provisions that refer to a person's marital status and use gender-specific words for parents and spouses. These provisions must be interpreted to recognize both spouses in same-sex marriages legally performed in another country or state. Additionally, current OCFS policies must be interpreted to recognize same-sex marriages legally performed in other jurisdictions.

For example, the statutory and regulatory provisions related to adoptions and eligibility for adoption subsidies that refer to "husband," "wife," "married couples," and "spouses" must be interpreted to include same-sex spouses and couples in marriages that have been legally performed in another jurisdiction.

Similarly, the statutory and regulatory provisions involving certification and approval of foster parents, or the operators of other residential programs, that reference married individuals and spouses must now be interpreted to include same-sex couples and spouses who have been legally married in another country or state.

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LDSS, voluntary agencies, and service providers also need to be particularly vigilant about this issue when determining eligibility for, providing, and administering child welfare, child care, adult protective, and domestic violence services. Proof of a legal marriage performed in another jurisdiction would include a marriage certificate from that jurisdiction.

Finally, as forms are updated, gender-specific terms such as “mother” and “father” or “husband” and “wife” should be replaced by gender-neutral terms such as “parent” or “spouse” in recognition of same-sex persons who are legally married.

**IV. Systems Implications**

The changes reflected in this directive are generally supported in CONNECTIONS and CCRS. If problems are identified that may require a work around, please contact the Applications HELP Unit at: “ocfs.sm.connections\_app\_help” mailbox. Note, the changes are not presently supported in the CONNECTIONS health module and will require modifications of that functionality at a future date.

**V. Effective Date**

This ADM is effective immediately.

*/s/ Karen Walker Bryce*

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**Issued By:**

Name: Karen Walker Bryce

Title: Deputy Commissioner for Legal Affairs and General Counsel

Division/Office: Division of Legal Affairs

**Attachment 2**

The following list of names identifies Children’s Services divisional liaisons who will work with the Children’ Services Office of Administrative Service – Forms Management Unit to ensure that all necessary modifications to the identified forms are completed and in compliance with 09-OCFS-ADM-07 *Recognizing of Legal Same-Sex Marriages*.

Administration/MIS	Michael Hannon
Community and Governmental Affairs	Boniface Eze
Child Care and Head Start	Aisha Taylor/Shari Gruber
Commissioner’s Office	Sherbreina Watson
Division of Child Protection	Stephanie Smith-Gantt
Division of Juvenile Justice	Lorraine Anderson
Family Court Legal Services	Ray Kimmelman
Family Permanency Services	Steve Bieber
Family Support Services	Nancy Chapman
Financial Services	Michelle White
General Counsel	Dean Chisholm
Quality Assurance	Susan Singh
Policy and Planning	Nadia Peets/Jahnun Lloyd