

REVOCATIONS

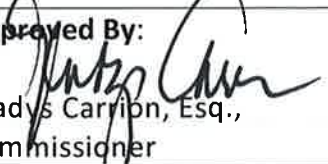
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Related Laws: FCA Article 3 Social Services Law §§ 398(3-a)(a)(4) and 404	Administration for Children's Services Divisions/Provider Agencies: Youth and Family Justice; Family Court Legal Services; Juvenile Justice Placement Provider Agencies	Contact Office /Unit: John Dixon Associate Commissioner Close to Home john.dixon@acs.nyc.gov	
Supporting Regulations: 9 NYCRR Part 169	Supporting Case Law: N/A		
Bulletins & Directives: N/A	Related Policies: N/A	Supersedes: N/A	
Related Forms: Conditions of Release/Grounds for Release Revocation			
SUMMARY: A youth who has been placed with the Administration for Children's Services (ACS) by the Family Court pursuant to a juvenile delinquency case may be released from ACS' physical custody on aftercare status before the expiration of the placement. During the period of release, ACS provides aftercare, which includes therapeutic support services and monitoring of the youth's progress in the community. The purpose of this policy is to provide guidelines and procedures for staff to follow when ACS seeks to revoke the release of a youth who is on aftercare status prior to the expiration of the youth's placement with ACS.			
SCOPE: This policy applies to staff from ACS' Division of Youth and Family Justice (DYFJ), staff from Family Court Legal Services (FCLS), and staff from all non-secure placement (NSP) and limited secure placement (LSP) providers. It also applies to all youth placed with ACS pursuant to Article 3 of the Family Court Act. The policy must be followed in order to determine whether to revoke a youth's release and return the youth to placement.			

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I. Purpose

- A. This policy outlines how the Administration for Children’s Services (ACS) will provide youth with notification of ACS’ expectations for them when they transition from non-secure placement (NSP) or limited secure placement (LSP) facilities to aftercare. In addition, it prescribes steps that ACS must follow with respect to any determination to revoke a youth from aftercare status.
- B. A youth who has been placed with ACS by the Family Court pursuant to a juvenile delinquency case may be released¹ from ACS’ physical custody on aftercare status before the expiration of the placement. During the period of release, ACS provides aftercare, which includes therapeutic support services and monitoring of the youth’s progress in the community.
- C. Prior to a release, it is critical that a youth reviews and signs the conditions of release², and expresses an understanding of ACS’ expectations with respect to the youth’s continued compliance and engagement with aftercare services.
- D. At any point during the period of release, ACS may determine that the return of the youth to the physical custody of ACS is necessary to protect the community. Upon such determination, ACS must seek to revoke the youth’s release.
- E. The procedure described in this policy is an adaptation of the process set forth in 9 NYCRR §169.1 - 169.10 for release revocations for youth in the custody of the New York State Office of Children and Family Services (OCFS).

II. Revocation of Release

A. Grounds

- 1. ACS may revoke the release of a youth on aftercare status from an ACS NSP or LSP level of care upon a violation of one or more of the following conditions of release:

¹ A “**release**” means that the youth is still in the legal custody of ACS, but is no longer in a Close to Home residential placement and is in the community on aftercare. The youth will remain on aftercare status until the youth’s period of court-ordered placement ends. Once the court-ordered placement ends, the youth is then “**discharged**” (i.e., the youth completes his or her court-ordered placement, shall not return to placement, and is no longer in the legal custody of ACS).

² The **conditions of release** are the conditions that the youth, family, and ACS discuss and agree to adhere to in order for the youth to safely finish his or her placement period in the community. See Attachment A; see 9 NYCRR 169.1.

- a. Adhering to a reasonable curfew set by the placement and permanency specialist (PPS) in consultation with the youth's family or other release resource;
- b. Refraining from associating with persons whose influence could have a detrimental effect upon the youth, including but not limited to persons previously convicted of a crime, having a known criminal background or gang involvement, including specific named individuals as determined by the PPS worker and parent/guardian;
- c. Attending school in accordance with the provisions of Part 1 of Article 65 of the Education Law, and abiding by the school rules. These provisions include attending school part-time or full-time unless the youth has completed a 4-year high school course of study;
- d. Accepting all referrals to services made by the PPS or aftercare provider agency and complying with and participating in all services to which the youth is referred;
- e. Abstaining from the use or possession of alcoholic beverages, hallucinogenic drugs, habit-forming drugs not lawfully prescribed, or the inappropriate use of any other harmful or dangerous substance;
- f. Reporting to the PPS and other designated ACS staff and aftercare provider staff as directed and cooperating with the PPS and ACS staff visits to the home and elsewhere as designated;
- g. Refraining from committing an act which would be a crime or violation or considered to be a crime or violation if committed by an adult, and reporting any arrest or contact with law enforcement;
- h. Refraining from operating a motor vehicle without a valid license;
- i. Obeying all reasonable requests of the youth's parents or other persons legally responsible for the youth's care and treatment;
- j. Refraining from running away from the lawful custody of the youth's parents or other persons legally responsible for the youth's care and treatment;
- k. Notifying the PPS immediately of any change of home address and/or education and employment status;

III. Initiation of Release Revocation Proceeding

- A. The PPS must prepare a report, the Revocation Statement, which documents the reasons why the youth's return to the physical custody of ACS in NSP or LSP is necessary to remediate specific behaviors and the need to protect the community.
1. The Revocation Statement must include information regarding the specific violation or violations of the conditions of release or the change of circumstance, a full description of all efforts made to address non-compliant behavior prior to seeking revocation, and the reason(s) it is necessary for the protection of the community to revoke the youth's aftercare status.
 2. The PPS must submit the Revocation Statement to his or her director for review. The director, in consultation with his or her executive director, must determine which of the following options to pursue:
 - a. Continue the release of the youth;
 - b. Modify the conditions of the youth's release;
 - c. Refer the matter to Family Court Legal Services (FCLS) to seek revocation of the release, if the director concludes that return of the youth to the physical custody of ACS is necessary for the protection of the community; or
 - d. Refer the matter to FCLS to seek revocation of the release and to file a petition in Family Court to seek an upward modification of the youth's placement, if the director concludes that a more restrictive placement is required and is necessary for the protection of the community.
- B. Notice of Hearing; Statement of Allegations; Warrant; and Return to Custody

When the Division of Youth and Family Justice (DYFJ) determines that the return of the youth to the physical custody of ACS is necessary for the protection of the community, the following procedure must be followed:

1. DYFJ must promptly alert the assigned FCLS attorney and assistant supervising attorney in the appropriate borough and send documentation of the grounds for the recommendation for release revocation with a request that a revocation hearing be held. As needed, the FCLS attorney may further discuss the proposed revocation with the DYFJ director and may seek to reevaluate the decision as appropriate.

2. FCLS must engage a hearing officer from the list of attorneys available for the purpose of officiating at the release revocation hearing and coordinate a time and place for the hearing.
3. If the youth has been taken back into the physical custody of ACS, the date of the hearing shall be no later than 20 calendar days from the date that the youth was taken into custody.
4. If the youth has not been taken into custody, the date of the hearing shall be no later than 20 calendar days from the mailing of the notice of hearing per subsection III(B)(5), below.
5. FCLS shall promptly prepare a notice of hearing which shall include:
 - a. A statement containing the allegations regarding violation(s) of the release conditions, efforts made to address non-compliant behavior, and the reasons revocation is necessary for the protection of the community as recommended by the PPS;
 - b. A statement of the right of the youth to a hearing;
 - c. A statement of the right of the youth to be represented by counsel, to testify, to produce witnesses, to present documentary evidence, to examine opposing witnesses, and to examine evidence;
 - d. The date, time, and place of the hearing; and
 - e. The name and contact information of the hearing officer who will conduct the hearing, if known at that time.
6. DYFJ may promptly issue a warrant if the DYFJ director determines that it is not reasonable to believe that the youth is likely to appear at the time and place of the hearing unless apprehended, or that it is reasonable to believe that the youth is likely to pose a danger to the well-being of himself, herself, or others, pending the time of the hearing.
7. A warrant may also be issued at the same time as the decision to revoke aftercare status.
8. If a youth is detained pursuant to an executed warrant before a revocation hearing, the PPS must work to immediately move the youth from detention to an NSP or LSP facility. ACS may detain a youth for a maximum of three (3) business

days in order to determine an appropriate new placement in an NSP or LSP facility.⁵

- a. If there is a determination that the youth will likely appear at the hearing and the youth will not pose a danger to himself, herself, or others, the youth must be allowed to remain in the community, pending the hearing.
9. FCLS must serve copies of the notice of hearing by certified mail, return receipt requested, no later than five (5) days from when DYFJ first notifies FCLS of the need to revoke a youth's release. The notice of hearing shall be served upon the following persons:
- a. The youth;
 - b. The youth's parent(s) or guardian;
 - c. The youth's legal counsel, as soon as that individual is identified; and
 - d. The hearing officer who shall conduct the revocation hearing.

IV. Revocation Hearing

A. Parties

1. The hearing officer must be an attorney whose services shall be arranged for by ACS exclusively to conduct hearings.
2. Those considered parties to the proceeding are the youth and ACS.
3. The youth shall have the right to legal counsel at the hearing. The attorney of record who represented the youth during the underlying delinquency matter must be contacted to represent the youth for purposes of the revocation hearing. If the youth no longer has legal counsel, FCLS must arrange for the services of an attorney for the purpose of representing the youth at the hearing.
4. An FCLS attorney shall represent DYFJ at the hearing.
5. Before the hearing, the youth or his or her attorney may, upon request to the FCLS attorney, examine copies of documentary evidence, in the possession of DYFJ, which DYFJ plans to introduce at the hearing.

⁵ See *Modifications of Placement for Youth in ACS Juvenile Justice Placement*.

B. Persons Who May Be Present at the Hearing

1. The following persons may be present at the hearing:
 - a. The youth;
 - b. The youth's attorney;
 - c. The youth's parent(s) or guardian;
 - d. The FCLS attorney;
 - e. Witnesses for both parties;
 - f. Any witnesses that may be called by the hearing officer;
 - g. Representatives from DYFJ;
 - h. Staff from the provider agency familiar with the youth or other knowledgeable individual(s); and
 - i. Other individuals whose presence the hearing officer may allow.

C. Revocation Hearing – Procedure

1. The hearing officer shall preside over the proceedings.
2. The hearing officer must make an opening statement describing the nature of the proceeding, the issues, and the manner in which the hearing will be conducted.
3. The hearing officer shall have the authority to require the attendance of witnesses from ACS and its contract agencies, request the attendance of other witnesses, require the production of books and records, unless disclosure is otherwise protected by law, administer oaths, take testimony, and grant reasonable adjournments requested by either party or on the hearing officer's own motion for good cause.
4. The hearing shall be conducted as an impartial hearing.
5. Technical rules of evidence followed in a court of law shall not apply, but all the evidence presented must be relevant and material; the hearing officer shall have the discretion and authority to determine the admissibility of evidence.
6. Each party shall have the right to testify, to produce witnesses to testify, to offer documentary evidence, to examine opposing witnesses, to offer rebuttal evidence and to examine any documentary evidence offered by the other party – all to the extent necessary to assure that the hearing officer is accurately informed of the facts.

7. The hearing officer may, in his or her discretion, order the removal of any person present at a hearing when the presence of that person interferes with the orderly conduct of the hearing.
8. A verbatim record of the hearings shall be made.

D. Examination of Record After Hearing

The record of the hearing shall be confidential, but it may be examined by either party or their attorneys or the youth's parent/guardian.

E. The Decision

1. The hearing officer must issue a decision as to whether the youth has knowingly violated any of the conditions of release, as alleged.
 - a. The decision must be supported by substantial evidence presented at the hearing.
 - b. If the decision is that there has been a knowing violation, the hearing officer must order revocation of release.
 - c. If the decision is that there has not been a knowing violation, the hearing officer must order the return of the youth to the community, under continued aftercare supervision.
2. The hearing officer may make no orders or directions other than the specific determination as to revocation of release.
3. The hearing officer must mail or e-mail a written decision to the following, within four (4) calendar days of the hearing:
 - a. The youth;
 - b. The youth's parent(s) or guardian;
 - c. The youth's attorney; and
 - d. The FCLS attorney.
4. If the decision is to revoke release, the written decision must include a clear, specific notice of the availability of judicial review pursuant to Article 78 of the Civil Practice Law and Rules.

5. Once a hearing officer orders a revocation, if the youth is detained, the PPS must work to immediately move the youth from detention to an NSP or LSP facility. ACS may detain the youth for a maximum of three (3) business days after the order of revocation is issued in order to determine an appropriate new placement in an NSP or LSP facility.

CONDITIONS OF RELEASE

STATUTORY AUTHORITY: Soc. Serv. Law § 398 (3-a)(a)

Name of Youth: _____

Facility: _____

I understand that before I can be released from this facility I must agree to the following conditions of release. I also understand that after my release, a violation of one or more of these conditions may result in a revision of my release plan or a revocation of my release and a return to a non-secure or limited secure facility. I have read each of the conditions, and they have been read and explained to me so that I believe I fully understand what each one means.

I, _____, agree to meet the following conditions upon my release:
NAME OF YOUTH

I will:

1. Adhere to a reasonable curfew set by my ACS Placement and Permanency Specialist (PPS) and enforced by my parent(s)/legal guardian(s);
2. Refrain from associating with persons whose influence could have a negative effect on me or my future, including but not limited to persons previously convicted of a crime, or having a known criminal background or gang involvement, including any of the individuals listed below. Examples of “associating with” include but are not limited to: talking to or sending messages by mail, phone, email, text, and social media (Facebook, Twitter, Instagram, Snapchat, Vine, etc.);

Identified person(s):

3. Attend school as required by state law, and abide by school rules. Attend assigned educational/vocational programs and adhere to rules and guidelines;
Assigned School/Program: _____
4. Drink no alcoholic beverages nor have them in my possession. Take, use or possess no hallucinogenic drugs, habit-forming drugs not lawfully prescribed, or any other harmful or dangerous substance;
5. Accept all referrals to services made by the PPS/CSS or aftercare provider; and comply with all services to which I am referred;
6. Report to the PPS and aftercare provider as directed and permit the PPS/CSS and aftercare provider to visit me at home or elsewhere;
7. Refrain from committing an act which would be a crime or considered to be a crime if committed by an adult;
8. Refrain from operating a motor vehicle without a valid license;
9. Obey all reasonable requests of my parent(s)/legal guardian(s), caregivers or other persons legally responsible for my care and treatment;

- 10. Refrain from running away from the lawful custody of my parents or other lawful authorities;
- 11. Refrain from leaving the state of New York without prior written notification to, and authorization from, the PPS/CSS;
- 12. Notify the PPS/CSS and aftercare provider immediately if my home address or school changes;
- 13. Participate in and/or attend appointments or sessions with:
(Examples: mental health providers; substance abuse treatment providers; medical providers; pro-social activities)

- 14. Any other reasonable condition of which I may be informed, including:

Youth: _____
SIGNATURE DATE

Parent/Legal Guardian: _____
SIGNATURE DATE

Placement and Permanency Specialist (PPS): _____
SIGNATURE DATE

Aftercare Agency: _____

Aftercare Agency Representative: _____
SIGNATURE DATE

Name of Facility: _____

Facility Representative: _____
SIGNATURE DATE