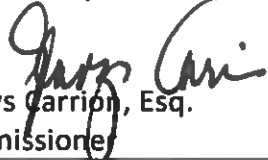


**Access to Religious Services and Practice for Youth in  
Juvenile Justice Placement**

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<b>Supporting Regulations:</b> 18 NYCRR §§ 421.6, 421.18, 428.3(b)(2)(i), and 441.11	<b>Supporting Case Law:</b> NA	<b>Key Words:</b> religious, services, practice, non-secure placement, limited secure placement, juvenile justice, placement, NSP, LSP, religion	
<b>Bulletins &amp; Directives:</b> 11-OCFS-ADM-04 - Religious Designation of a Foster Child and a Child Being Placed for Adoption	<b>Related Policies:</b> <ul style="list-style-type: none"> <li>• Contraband Policy for Juvenile Justice Placement;</li> <li>• Non-Secure Placement Personal Youth Search Policy;</li> <li>• Limited Secure Placement Personal Youth Search Policy</li> <li>• Log Books for Juvenile Justice Placement Facilities</li> </ul>		
<b>SUMMARY:</b> The Administration for Children's Services (ACS) respects the rights of youth in non-secure juvenile justice placement (NSP) and limited secure juvenile justice placement (LSP) facilities to practice a religion if they so choose. NSP and LSP provider agencies are required to facilitate a youth's access to clergy and to the voluntary practice of religion, subject to limitation only as necessary to maintain a facility's safety, security, and order. Provider agencies are prohibited from compelling any form of religious practice and from discriminating against a youth based on his or her decision to participate in, or not to participate in, any religious practice. All juvenile justice placement providers are required to provide youth with access to religious services in accordance with this policy.			
<b>SCOPE:</b> This policy applies to all facilities having care and custody of youth placed with ACS pursuant to Article 3 of the Family Court Act.			

## I. Introduction

It is the policy of the Administration for Children's Services (ACS) that every youth has the right to practice his or her religion regardless of his or her level of placement. For this reason, every youth placed with ACS in a non-secure juvenile justice placement (NSP) or limited secure juvenile justice placement (LSP) facility must have access to religious services and programs, unless the youth's parent/guardian expressly requests otherwise in writing. Any attempt by staff to recruit a youth to convert to another faith is strictly prohibited. Furthermore, a youth's religion must not be changed except on the written consent of his or her parent/guardian unless the youth is 18 years of age or older or has been freed for adoption.

## II. Definitions

- A. Religious Volunteer - Any individual that a juvenile justice placement provider makes available to deliver volunteer religious services and programs to one or more NSP or LSP youth. This includes, but is not limited to, pastors, priests, rabbis, imams, and other clergy, as well as musicians, actors, interns, and all other individuals from outside of the facility who assist or work with religious volunteers. For example, if an NSP facility wishes to bring a pastor and choir into the facility for a religious program for youth, both the pastor and the choir members would be considered religious volunteers and not religious representatives.
- B. Religious Representative - Any individual who is specifically requested by a youth in an NSP or LSP facility to provide religious advice, counseling, or guidance to that youth while he or she is in care. For example, if a youth in an LSP facility requests that the priest from his or her home congregation come to the facility to provide him or her with spiritual guidance, the priest would be considered a religious representative and not a religious volunteer.

## III. Policy

### A. Facility-Specific Policies

All juvenile justice placement providers are required to have written policies on religious observance, instruction, and training. Such training must encompass all facets of this policy and of the provider's own religious services policies, and must provide staff with a full understanding of how to respect each youth's right to practice his or her religion. Provider agencies must give youth access to religious services and clergy of their faith in accordance with this policy.

### B. Voluntary Participation in Religious Practice and Observation

1. Participation by youth in any religious program or activity is strictly voluntary. No

youth shall be compelled into religious participation in any way. Furthermore, every youth has the right to ask to be removed or separated from any religious services or activities at any time.

2. Providers are strictly prohibited from engaging in or promoting religious worship, instruction, or proselytizing; and no religion shall be favored over any other or given special rights to practice in juvenile justice placement facilities.
3. Similarly, religious volunteers and religious representatives are also strictly prohibited from proselytizing to youth who are not of the same religion.
4. Providers are prohibited from discriminating on the basis of a youth's decision to practice a specific religion, to take part in or refrain from taking part in any particular religious custom, or to refrain from religious observation altogether.

#### C. Change of Religion

A youth shall be permitted to change his or her religion only upon written request by his or her parent/guardian unless the youth is 18 years of age or older or freed for adoption. Any such written requests should be submitted to the case planner by the parent/guardian and made part of the youth's official case record.

#### D. Access to Religious Services and Prayer

1. A youth in a juvenile justice placement facility may participate in religious practices and experiences, consistent with requirements of health, safety, and the security of the facility, unless his or her parent/guardian expressly requests otherwise in writing, unless the youth is 18 years of age or older or has been freed for adoption, in which case it is the youth's choice.<sup>1</sup>
2. Providers must offer access to specific religious services or practices as required by individual or group interest. These services must be carried out with the help of approved religious volunteers as needed. If an agency employs a chaplain, that agency must coordinate the youth's access to religious services with the agency chaplain to the extent possible.
3. A youth residing in an NSP or LSP facility must be permitted to observe religious holidays in accordance with the requirements of his or her religion. If such observance requires participation in specific rituals that cannot be performed at the facility, providers must make all efforts, in collaboration with

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<sup>1</sup> If the youth has been freed for adoption by a surrender, the parent may express his or her religious preference for the youth in writing at the time of the surrender. See Social Services Law § 373; 18 NYCRR § 421.6(h) and (i); and 18 NYCRR § 421.18.

approved religious volunteer services, to facilitate participation at a location in the community. Participation in settings outside of NSP and LSP facilities must only be permitted if not contrary to court order.

4. Provider staff must supervise youth in all religious services, both on site and in the community, in accordance with ACS and facility policies on staffing ratios. The presence of provider staff must be limited to the purpose of maintaining supervision and security.
5. Providers must accommodate any youth whose religion requires prayer at specific times throughout the day, or whose religion requires a specific number of prayers per day. In making this accommodation, providers must arrange for an appropriate place for the youth to pray, as well as reasonable access to required apparel or prayer instruments, such as prayer mats or prayer books.

E. Prohibition on the Use of Alcohol and Other Intoxicating Substances

Providers must not allow the use of alcohol or intoxicating substances on juvenile justice placement facility premises in any form, even if these substances are associated with legitimate religious rituals. Alternate substances may be substituted, such as grape juice for sacramental wine.

F. Use of Material from Outside the Facility

All religious materials brought into a facility by anyone must be subject to search by facility staff prior to entering the facility. Anything purported to be religious materials that would fall within the definition of contraband must be treated as contraband and addressed under that policy.<sup>2</sup>

G. Participation of Religious Volunteers and Religious Representatives

1. All religious volunteers and representatives presiding over or participating in religious services at an NSP or LSP facility must be granted entry on the condition that they agree to adhere to all ACS and provider agency policies, as well as written and verbal instructions from ACS and provider staff.
2. Prior to entry, religious volunteers and representatives may be subject to a search for contraband, which must be completed in accordance with ACS' policies on searching visitors.<sup>3</sup> Religious volunteers and representatives must also be subject to all other ACS and provider agency policies regarding visitors.

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<sup>2</sup> See ACS Policy and Procedure #2015/03, *Contraband Policy for Juvenile Justice Placement*.

<sup>3</sup> See ACS Policy and Procedure #2012/06, *Non-Secure Placement Personal Youth Search Policy*; see ACS Policy and Procedure #2015/09, *Limited Secure Placement Personal Youth Search Policy*.

3. Prior to entry, all religious volunteers from outside the facility who have regular and substantial contact with youth at the facility must be subject to clearances in the New York Statewide Central Register of Child Abuse and Maltreatment (SCR), as well as the Vulnerable Persons' Central Register (VPCR) through a check of the Staff Exclusion List (SEL).
4. Where the results of an SCR clearance show that the religious volunteer has been the subject of an indicated report, provider agency directors must use the information available to the director to determine whether the results of the SCR clearance warrant exclusion of the volunteer from the facility. Religious volunteers named on the SEL must not be permitted entry to any facility. There shall be no exceptions.
5. Every youth has the right to request spiritual counseling from a religious representative of his or her own faith. Religious representatives with whom a youth has specifically requested contact must be considered visitors and must be subject to all ACS and provider agency policies and procedures regarding visiting.
6. All religious volunteers and representatives who are granted entry to an NSP or LSP facility must sign the appropriate visitor log book.<sup>4</sup>

#### H. Religious Diet

1. NSP and LSP facilities must meet all of each youth's religious dietary requirements, including by making appropriate accommodations regarding food content, preparation, utensils, and eating time. This shall be true for youth who eat a specific religious diet on a daily basis (e.g., youth who only eat Kosher food at all times), as well as for youth who require short-term dietary accommodations for religious purposes (e.g., a Jewish youth observing Passover or a Muslim youth observing Ramadan). In doing this, agency staff must consult with the youth's family and/or religious institution as appropriate. If additional assistance is necessary, provider agencies may also contact the ACS Division of Youth and Family Justice (DYFJ) for guidance.
2. NSP and LSP facilities must appoint a staff member to monitor any youth who chooses to fast for religious reasons. This staff member must arrange for any youth fasting for religious reasons to be provided with sufficient meals before and after fasts.
  - a. If a youth is taking medication or has any medical condition that requires treatment by a physician, including pregnancy, or if provider staff have any other reason to be concerned about a youth's health should he or she fast, facility staff

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<sup>4</sup> See ACS Policy and Procedure, *Log Books for Juvenile Justice Placement Facilities*.

must speak with the youth's treating physician prior to the youth's scheduled fast.

- b. If a youth's physician indicates any concerns regarding the youth's desire to fast, provider staff must discuss the medical concerns with clergy from the youth's religious group and encourage discussion between the youth and clergy regarding whether fasting is appropriate under the particular circumstances. Providers must also contact the youth's parent/guardian to discuss any such safety concerns.

I. Religious Clothing and Objects

1. Provider agencies must allow any youth who requires special apparel for religious reasons access to such apparel as long as the safety and security of the facility is not compromised. This apparel shall include, but is not limited to, religious head coverings for male and female youth and prayer shawls. Any such apparel must be subject to search if there is individualized reasonable suspicion that a youth is in possession of contraband.<sup>5</sup>
2. Religious apparel and ritual objects associated with specific forms of worship, but which are not required to be worn full-time, must be permitted during religious services when appropriate. When not in use, these items must be stored in a secure area.

J. Documentation Requirements

1. Provider agencies must document all significant issues relating to a youth's access to religious services, including accommodations made for the youth's religious dietary needs, in the youth's case record. In addition, provider agencies must carefully monitor any youth who chooses to fast for religious reasons and must document all communication with medical staff in regard to the safety of the fasts. If specific health-related information, such as a medical professional's assessment of a youth's decision to fast, would otherwise be documented in the medical information section of CONNECTIONS, such information must also be documented in that section.
2. Provider agencies must document the results of VPCR and SCR clearances for religious volunteers in the agency or facility personnel files.

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<sup>5</sup> See ACS Policy and Procedure #2012/06, *Non-Secure Placement Personal Youth Search Policy*; see ACS Policy and Procedure #2015/09, *Limited Secure Placement Personal Youth Search Policy*.