



*Administration for Children's Services*  
150 William St. 18<sup>th</sup> floor  
New York, New York 10038

WILLIAM C. BELL  
*Commissioner*

**MEMORANDUM**

To: All Staff  
From: William C. Bell *WCB*  
Date: March 16, 2004  
Re: Executive Order No. 41

---

Mayor Michael R. Bloomberg recently signed Executive Order Number 41, which prohibits City agencies and their employees, with certain exceptions, from disclosing confidential information.

Confidential information is defined by the Executive Order as any information obtained and maintained by a City agency relating to:

- (1) an individual's sexual orientation; or
- (2) status as a victim of domestic violence; or
- (3) status as a victim of sexual assault; or
- (4) status as a crime witness; or
- (5) receipt of public assistance; or
- (6) immigration status; or
- (7) all information contained in any individual's income tax records.

The Executive Order does, however, provide that confidential information may be disclosed in certain circumstances. These exceptions are when:

- (a) such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or legal guardian; or
- (b) such disclosure is required by law; or
- (c) such disclosure is to another City officer or employee and is necessary to fulfill the purpose or achieve the mission of any City agency; or
- (d) in the case of confidential information other than information relating to immigration status, such disclosure is necessary to fulfill the purpose or achieve the mission of any City agency; or

- (e) in the case of information relating to immigration status, (i) the individual to whom such information pertains is suspected by such officer or employee or such officer's or employee's agency of engaging in illegal activity, other than mere status as an undocumented alien or (ii) the dissemination of such information is necessary to apprehend a person suspected of engaging in illegal activity, other than mere status as an undocumented alien, or (iii) such disclosure is necessary in furtherance of an investigation of potential terrorist activity.

Illegal activity is defined as anything that is unlawful, but does not include mere status as an undocumented alien.

Executive Order Number 41 further amends section 2 of Executive Order Number 34, dated May 13, 2003. Executive Order 34 sets forth the City policy concerning immigrant access to City services. The amended Executive Order 34 states that a City employee or officer, other than law enforcement officers, shall not inquire about a person's immigration status unless:

- (1) Such person's immigration status is necessary for the determination of program, service or benefit eligibility or the provision of City services; or
- (2) Such officer or employee is required by law to inquire about such person's immigration status.

Accordingly, ACS staff may not inquire about an individual's immigration status unless knowledge of that person's immigration is necessary to determine eligibility for the provision of a City service, program or benefit. Also, if ACS staff are required by law to inquire about a person's immigration status, the staff may do so.

ACS staff must consult with their supervisor and DLS attorneys concerning any request for confidential information. If any ACS officer or employee has a question relating to the disclosure of confidential information under this Executive Order, please consult with Deputy Commissioner and General Counsel Joseph Cardieri's office.