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SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS**Article 1 Assessment of the Child****35127.1 CONTENT OF WRITTEN ASSESSMENT OF THE CHILD**

- (a) (Reserved)

HANDBOOK BEGINS HERE

- (a) Refer to Subchapter 8 for additional procedures for the child subject to the provisions of the ICWA.

HANDBOOK ENDS HERE

- (b) The agency shall assess each child accepted for adoption services. The assessment shall be in writing and shall include but not be limited to:

- (1) Identification of the child, including the child's:

- (A) Sex.
- (B) Age.
- (C) Race.
- (D) Ethnicity.
- (E) Juvenile court status, including whether the child is a dependent or subject to a petition pursuant to Welfare and Institutions Code Section 300.

- (2) Medical, developmental, scholastic, mental, emotional and behavioral history and current status.

- (A) If the child is younger than age 5, a developmental assessment.

HANDBOOK BEGINS HERE

- (B) The agency may have the developmental assessment completed by an agency social worker or appropriate professional.

HANDBOOK ENDS HERE

35127.1 CONTENT OF WRITTEN ASSESSMENT OF THE CHILD (Continued)

- (3) For a child placed in out-of-home care, a review of the amount of and nature of any contact between the child and his or her birth parents or other members of his or her extended family since the time of placement in out-of-home care. This review shall include:
- (A) Whether the child would benefit from continuing contact with members of his or her extended family after an adoption.
 - (B) Whether the child has any siblings with whom the child should be placed for adoption.
 - (C) Whether the child has any siblings with whom the child would benefit from maintaining contact.
- (4) Family life history, including the following:
- (A) The history of and relationship to any significant caretakers of the child.
 - (B) If the child has been placed out of the home, a summary of the child's placement history.
 - (C) The relationship of the child with any identified prospective adoptive parent, particularly the caretaker, the duration and character of the relationship.
- (5) Determination of the child's AAP eligibility when applicable, and the basis for such a determination.
- (6) Religion and/or cultural background.

HANDBOOK BEGINS HERE

- (A) Religious or cultural background may include the stated preference indicated by the birth parent, and whether the child has been the subject of any significant religious or cultural ceremonies such as a Christian baptism, Jewish bris, or Native American naming ceremony.

HANDBOOK ENDS HERE

- (7) Assessment of the child's readiness for adoption and willingness to be adopted, including:
- (A) A statement from the child concerning placement and adoption unless the child's age or physical, emotional or other condition precludes his or her meaningful response, and if so, a description of the condition.

35127.1 CONTENT OF WRITTEN ASSESSMENT OF THE CHILD (Continued)

- (8) An analysis of the likelihood that the minor will be adopted if parental rights are terminated, including whether a potential adoptive family has been identified.
- (9) The results of a psychological evaluation when it exists.
 - (A) The agency shall obtain the results of a psychological evaluation for a child age 5 years and older when there is an indication that such an evaluation is necessary as determined by either:
 - 1. The agency's review of the child's history which indicates a genetic predisposition for mental illness, or
 - 2. The agency's review of the child's behavior which seems abnormal and symptomatic of mental illness, such as:
 - a. Pervasive lack of responsiveness to other people.
 - b. Solitary, stereotyped, repetitive play.
 - c. Peculiar speech patterns or speech disorders.
 - d. Extreme need for sameness.
 - e. Peculiar interest in or attachment to inanimate objects.
 - f. Retreat into fantasy, bizarre gestures or mannerisms.
 - g. Extreme aggression and uncontrollability when separated from parental figures.
 - h. Slowed thinking, apathy, or suicidal thoughts.
 - i. Bizarre eating habits or disturbances while eating.
 - j. Constricted or inappropriate affect.
 - k. Incoherence with delusions, hallucinations, or loose associations.

35127.1 CONTENT OF WRITTEN ASSESSMENT OF THE CHILD (Continued)

- l. Oddities of motor development, such as peculiar posturing or peculiar hand or finger movements.
 - m. Excessive, persistent anxiety and worry.
 - n. Psychomotor agitation or hyperactivity.
- (B) When a child age 5 years or older is not displaying symptoms of emotional disturbance, such as those specified in Section 35127.1(b)(9)(A), the agency shall:
1. Determine, based on the agency's judgment, whether other available information about the child and/or the parent indicates that a psychological evaluation is necessary to facilitate the placement and ongoing care of the child, and
 2. If the agency determines a psychological evaluation is necessary, arrange for and obtain the results of a psychological evaluation for the child.

HANDBOOK BEGINS HERE

3. Information which may indicate an evaluation is necessary may be provided by birth or court records or reports from relatives, foster parents, teachers, medical personnel or others who are familiar with the child or birth parent. This information may include, but is not limited to, any of the following:
 - a. Birth parent history of mental illness.
 - b. Birth mother use of drugs or alcohol during pregnancy.
 - c. Child history of severe or sustained physical, sexual or emotional abuse.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608 and 8621, Family Code. Reference: Sections 361.5, 366.21 and 366.22, Welfare and Institutions Code; Sections 8608, 8706, 8715, and 9100, Family Code; and 25 U.S.C. 1901 et seq.

35127.2 DOCUMENTS, REPORTS AND AUTHORIZATIONS REQUIRED FOR ASSESSMENT OF THE CHILD

- (a) (Reserved)

HANDBOOK BEGINS HERE

- (a) Refer to Subchapter 8 for additional procedures for the child subject to the provisions of the ICWA.

HANDBOOK ENDS HERE

- (b) The agency shall obtain:
- (1) A certified copy of the child's birth certificate.
 - (2) Complete information regarding the legal status of the child.
 - (3) If the child is a dependent of the juvenile court, all court reports regarding the child's dependency.
 - (4) Medical reports.
 - (A) The information contained in the medical report shall be sufficient to enable the agency to comply with the requirements of Family Code Section 8706 as set forth at Section 35195(a)(1).
 - (5) Dental reports, when they exist.
 - (6) Authorizations for the release of:
 - (A) Medical information.
 - (B) Dental reports, when relevant.
 - (C) Scholastic information, if relevant.
 - (D) Psychological information, if relevant.
 - (E) Medical, psychological and social information about birth parents.
 - (7) Authorization for the child's medical care prior to relinquishment.

NOTE: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608 and 8621, Family Code. Reference: Sections 8608, 8706, and 8715, Family Code; and 25 U.S.C. 1901 et seq.

35127.3 SERVICES FOR CHILDREN ACCEPTED FOR ADOPTION PLANNING

- (a) The agency shall provide services to children who are accepted for adoption planning, including but not limited to:
- (1) Preventive and remedial medical care, including mental health services.
 - (2) Obtaining medical reports and the medical background of the child.
 - (3) Services pertaining to the placement of the child for adoption, the emotional preparation of the child for adoption and working through losses and separations.
 - (4) Services pertaining to supervision of the adoptive placement.
 - (5) Preparation and completion of the Adoption Placement Agreement.
 - (6) Preparation and completion of the Adoption Assistance Agreement, when necessary.
 - (7) Determination of the AAP payment level, when necessary.
 - (8) Recertification of the Adoption Assistance Agreement, when necessary.
 - (9) Freeing the child for adoption.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code. Reference: Sections 8704, 8706, 8708, and 8715, Family Code.

SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS

Article 2 Freeing a Child for Adoption

35128

FREEING A CHILD FOR ADOPTION

(a) (Reserved)

HANDBOOK BEGINS HERE

(a) Refer to Subchapter 8 for additional procedures for the child subject to the provisions of the ICWA.

HANDBOOK ENDS HERE

(b) No agency shall place a child for adoption unless parental rights of all living parents who may have a potential legal claim to the child have been terminated, except as specified in this section, and documentation of such actions has been filed with and acknowledged by the department.

(1) If the child is in the custody of a public agency or licensed adoption agency and all parents having a potential legal claim to the child are deceased, the agency shall file an action under Family Code Section 8705.

HANDBOOK BEGINS HERE

(A) Family Code Section 8705, in pertinent part, states:

"(a) Where a child is in the custody of a public agency or a licensed adoption agency, if it is established that the persons whose consent to the adoption is required by law are deceased, an action may be brought by the department or a licensed adoption agency requesting the court to make an order establishing that the requesting agency has the right to custody and control of the child and the authority to place the child for adoption."

HANDBOOK ENDS HERE

35128**FREEING A CHILD FOR ADOPTION (Continued)**

- (c) The parental rights of the mother and any father identified pursuant to Section 35128(d) shall be terminated by one of the following actions:
- (1) Relinquishment of the child to an agency.
 - (2) Court action terminating parental rights.
 - (3) Similar action taken in another state, country or territory to voluntarily or involuntarily terminate parental rights.
- (d) The agency shall identify all parents who may have a potential legal claim to the child.

HANDBOOK BEGINS HERE

- (1) Individuals who may have a potential legal claim to the child include the following:
- (A) The birth mother.
 - (B) Any man presumed to be the father under Family Code Section 7540, 7573, 7574, or 7611.
 1. Any man who has signed a voluntary declaration of paternity pursuant to Family Code Sections 7573 and 7574 or who after January 1, 1997, is identified on the child's birth certificate is considered to be a presumed father, and his parental rights to the child shall be terminated as those of a presumed father.
 - a. Family Code Section 7573 is located at Section 35108(e)(3)(A).
 - b. Family Code Section 7574 is located at Section 35108(e)(3)(B).
 2. A conclusively presumed father is defined at Family Code Sections 7540, 7541, and 7576.
 - a. Family Code Section 7540 is located at Section 35108(e)(4)(A).
 - b. Family Code Section 7541 is located at Section 35108(e)(4)(B).
 - c. Family Code Section 7576 is located at Section 35108(e)(4)(C).

HANDBOOK CONTINUES

35128

FREEING A CHILD FOR ADOPTION (Continued)

HANDBOOK CONTINUES

3. A man is rebuttably presumed to be the natural father of the child if he meets the criteria at Family Code Section 7577 or any of the criteria at Family Code Section 7611.
 - a. Family Code Section 7577 is located at Section 35108(e)(5)(A).
 - b. Family Code Section 7611 is located at Section 35108(e)(5)(B).
- (C) Any man alleged to be the natural father of the child.
 1. Before January 1, 1997, a man listed on the child's birth certificate who does not meet the definition of a presumed father.
 2. A child is assumed to have a father even if the identity of the father is unknown.
- (D) Any man determined by the court to be the child's father.

HANDBOOK ENDS HERE

- (2) If the mother or other individual identifies any possible father and has knowledge of his whereabouts, the agency shall attempt to contact and interview him as specified in Section 35129 unless:
 - (A) A court has made a prior determination that the man is not the father and the agency has received no subsequent information to the contrary.
- (3) If the mother identifies the alleged natural father or he has been identified to the satisfaction of the court and he cannot be located, the agency shall take all of the following actions:
 - (A) Inform the court that the alleged natural father cannot be located;
 - (B) Petition the court to terminate the alleged natural father's parental rights pursuant to Family Code Sections 7662 and 7666, and

HANDBOOK BEGINS HERE

1. Family Code Section 7662 is located at Section 35108(g)(1).
2. Family Code Section 7666 is located at Section 35108(g)(2).

HANDBOOK ENDS HERE

35128**FREEING A CHILD FOR ADOPTION (Continued)**

- (C) Request that the court dispense with the notice of the proceeding to the alleged natural father.
- (4) If the mother is unable or unwilling to identify the alleged natural father, the agency shall contact any appropriate persons in an effort to identify and locate him.
 - (A) If the agency, through another source of information, identifies one or more alleged natural fathers, the agency shall inform the mother of the identity of the alleged natural father before petitioning the court to terminate the alleged natural father's parental rights.
 - 1. If the alleged natural father is identified after the inquiry and the mother confirms his identity, the procedures under this section shall be followed.
 - 2. If the alleged natural father remains unidentified, the agency shall petition the court to terminate his parental rights.
- (e) The agency may place the child for adoption when all of the following have occurred:
 - (1) The parental rights of the mother and any identified fathers have been terminated meeting the requirements of Section 35128(c).
 - (2) The parental rights of any alleged natural father have not been terminated by his signing a relinquishment or by court action but one of the following actions has been taken:
 - (A) He has signed a waiver of further notice of the adoption proceedings and the waiver has been filed with and receipt acknowledged by the department.

HANDBOOK BEGINS HERE

- 1. This is the AD 590.
- 2. The AD 590 may be accepted by the agency before the birth of the child.

HANDBOOK ENDS HERE

- (B) He has signed a denial of paternity and the denial has been filed with and receipt acknowledged by the department.

35128

FREEING A CHILD FOR ADOPTION (Continued)

HANDBOOK BEGINS HERE

1. This is the AD 588.
2. The AD 588 may be accepted by the agency before the birth of the child.
3. The Form JV-505 is a denial of paternity if Item 1 on the form has been completed and the alleged natural father has signed the form.

HANDBOOK ENDS HERE

- (C) He has received notification pursuant to Family Code Sections 7664 and 7666 and no response is made within 30 days of either the service of such notice or the birth of the child, whichever is later.

HANDBOOK BEGINS HERE

1. Under these actions, an alleged natural father loses the right to contest the adoption; however, these actions do not terminate his parental rights to the child. He may be determined by a court to be the child's father and to have child support and other obligations toward the child. His parental rights to the child remain until the court issues the decree of adoption or a separate action to terminate his parental rights is taken.

HANDBOOK ENDS HERE

- (3) An action under Family Code Sections 7662 and 7666 to terminate the parental rights of an alleged natural father has been filed with the court:
- (A) The agency intends to place the child for adoption with a prospective adoptive parent assessed and approved by an agency, and
 - (B) The agency administrator has approved the proposed placement.

HANDBOOK BEGINS HERE

- (C) Family Code Section 7662 is located at Section 35108(g)(1).
- (D) Family Code Section 7666 is located at Section 35108(g)(2).

HANDBOOK ENDS HERE

35128**FREEING A CHILD FOR ADOPTION (Continued)**

- (4) The parental rights of a noncustodial parent have not been terminated, but all of the following conditions have been met:
- (A) Pursuant to Family Code Section 8604(b), one birth parent has been awarded custody by judicial order, or has custody by agreement of both parents, and the other birth parent for a period of one year fails to communicate with and to pay for the care, support, and education of the child when able to do so.

HANDBOOK BEGINS HERE

1. Family Code Section 8604(b) is located at Section 35108(f)(2).

HANDBOOK ENDS HERE

- (B) Pursuant to Family Code Section 8606, his or her agreement to the adoption is not necessary.

HANDBOOK BEGINS HERE

1. Family Code Section 8606 is located at Section 35108(f)(3).

HANDBOOK ENDS HERE

- (C) The noncustodial birth parent has been properly notified of a hearing under Family Code Section 8718 to finalize the adoption.
- (D) The birth parent having custody of the child relinquished the child to the agency or had his or her parental rights terminated by court action.
- (f) If a court action is brought and the court determines that the alleged natural father is the father, the agency shall not place the child for adoption unless the parental rights of this father have been terminated as specified in subsection (c) of this section.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code. Reference: Section 1183, Civil Code; Sections 7500, 7501, 7576, 7577, 7611, 7612, 7630, 7631, 7660, 7661, 7662, 7663, 7664, 7665, 7666, 7669, 7802, 7807, 7808, 7820, 7821, 7822, 7823, 7824, 7825, 7826, 7827, 7828, 7829, 7890, 7892, 7893(b)(3), 8604, 8605, 8606, and 8700, Family Code; 414.10, 415.30, 415.50, 417.10, and 417.20, Code of Civil Procedure; Sections 316 and 366.26, Welfare and Institutions Code; and 25 U.S.C. 1901 et seq.

SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS**Article 3 Services for the Birth Parents****35129****SERVICES FOR THE BIRTH PARENT**

- (a) Before accepting a relinquishment of a child for adoption from a parent who is physically present in California, the agency shall:
- (1) Advise the parent regarding his or her rights and alternatives to relinquishment of the child.
 - (A) If the child is not detained, a juvenile court dependent in out-of-home care, or the ward of a legal guardian, the parent shall be advised as specified at Section 35129.1.
 - (B) If the child is detained, a juvenile court dependent in out-of-home care, or the ward of a legal guardian, the parent shall be advised as specified at Section 35129.2.

HANDBOOK BEGINS HERE

- (C) The content of the advisement is determined by the child's juvenile court and placement status. The following questions may help the agency determine the correct content of the advisement:
1. Is the child in the physical custody of at least one of his or her parents (even if he or she is a dependent receiving Family Maintenance services)?
 - a. If yes, advise as specified at Section 35129.1;
 - b. If no, go to 2.
 2. Is the child a juvenile court dependent?
 - a. If yes, advise as specified at Section 35129.2;
 - b. If no, go to 3.
 3. Is the child the subject of a petition for jurisdiction of the juvenile court?
 - a. If yes, advise as specified at Section 35129.2;
 - b. If no, go to 4.
 4. Is the child living with a legal guardian?
 - a. If yes, advise as specified at Section 35129.2.

HANDBOOK CONTINUES

35129**SERVICES FOR THE BIRTH PARENT (Continued)**

HANDBOOK CONTINUES

- b. If not, the child must be in voluntary out-of-home care; advise as specified at Section 35129.1.

HANDBOOK ENDS HERE

- (2) Provide counseling that, at a minimum, is intended to assist the parent to:
 - (A) Understand his or her feelings regarding relinquishing the child for adoption and the long range implications of relinquishing the child for adoption, and
 - (B) Freely make his or her choice regarding relinquishing the child to the agency for adoption.
 - 1. If the parent elects to relinquish the child, the agency shall also provide counseling to assist the parent in deciding:
 - a. Whether the parent wishes to complete a standard or designated relinquishment, and
 - b. Whether the parent elects to participate in a post-adoption contact agreement and, if so, the conditions the parent would like to include in the agreement.
- (3) Obtain the parent's authorization on the AD 100 for the release of information as specified in Section 35129.3(d).

HANDBOOK BEGINS HERE

- (A) The purpose of this authorization is to allow the agency to obtain the reports specified in Section 35129.3(a) and to provide information concerning the child and parents to the prospective adoptive parents.

HANDBOOK ENDS HERE

- (4) Assist the parent to provide medical and social background information.
 - (A) The mother shall be assisted in completing the AD 67 about herself and, if the father is not being interviewed, the AD 67A about the father.
 - (B) The presumed or alleged natural father who indicates that he is or might be the child's father shall be assisted in completing the AD 67A about himself and, if the mother is not being interviewed, the AD 67 about the mother.

35129

SERVICES FOR THE BIRTH PARENT (Continued)

HANDBOOK BEGINS HERE

- (C) The parent may find the assistance of family members helpful in completing the AD 67 or the AD 67A.

HANDBOOK ENDS HERE

- (5) Obtain and verify all information necessary to identify the child's mother, any presumed father(s), and any alleged natural father(s).
- (A) The adoption agency shall emphasize the importance of, and explain the possible repercussions of, not accurately identifying other possible parents including:
1. The mother or presumed father who was not identified may claim and be able to take custody of the child after the child has been placed for adoption. This experience is very traumatic for the child and the prospective adoptive parents.
 2. Because it is not possible to obtain medical history and other background information from unidentified parents, the child and his or her adoptive parents will be deprived of crucial information which may be relevant to future decisions regarding the child's health and well-being.
- (B) The agency shall ask of the mother and any other appropriate person as to whether:
1. A judgment of paternity already exists.
 2. The mother was married at the time of conception of the child or at any time thereafter.
 3. The mother was cohabiting with a man at the time of conception or birth of the child.
 4. The mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
 5. Any man has formally or informally acknowledged or declared his possible paternity of the child.

35129**SERVICES FOR THE BIRTH PARENT (Continued)**

HANDBOOK BEGINS HERE

- a. A voluntary declaration of paternity completed pursuant to Family Code Section 7574 is an example of a formal acknowledgment of paternity.

HANDBOOK ENDS HERE

6. Paternity tests have been administered and the results, if any.

HANDBOOK BEGINS HERE

- (C) The AD 880 may be used to collect the information specified in Section 35129(a)(5)(B) from the mother.

HANDBOOK ENDS HERE

- (D) The agency shall report the results of such inquiry to the court in its final report to the court and in any report concerning the termination of the parental rights of a presumed or alleged natural father.
- (b) The agency shall attempt to provide the services required by Section 35129(a) to any other person identified as a possible parent of the child.
- (1) If the relinquishing parent is not physically present in California, the agency shall attempt to provide the services required by Section 35129(a) by telephone and/or with the assistance of an adoption agency in the state or country where the relinquishing parent is physically present.

HANDBOOK BEGINS HERE

- (A) Under Family Code Section 8700(c), a California adoption agency may not accept a relinquishment from a parent not residing in California unless the child is already in the care of the California adoption agency.

HANDBOOK ENDS HERE

35129 SERVICES FOR THE BIRTH PARENT (Continued)

- (c) After accepting a relinquishment, the agency shall provide additional counseling and referral services to the relinquishing parent as needed.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8619, 8621 and 8714.5, Family Code. Reference: Sections 7601, 7602, 7610, 7613, 7630, 7631, 7633, 7650, 7660, 7661, 7662, 7663, 7664, 7665, 7666, 7802, 8512, 8604, 8616.5, 8617, 8619, 8700, 8703, 8705, 8706, and 8714.7, Family Code; and Section 316.2, Welfare and Institutions Code.

35129.1ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM THE PARENT'S CARE

HANDBOOK BEGINS HERE

- (a) Most parents in this class are parents of children, usually newborns, who are not involved with the juvenile court and are not placed in out-of-home care (i.e., these are traditional relinquishment adoptions). However, this class may also include:
- (1) Parents of children who are voluntarily placed in out-of-home care with agencies such as county welfare departments or regional centers for the developmentally disabled.
 - (2) Parents receiving Family Maintenance Services whose children are juvenile court dependents but remaining in the parents' care.

HANDBOOK ENDS HERE

- (b) When advising a mother or presumed father who is considering the relinquishment of a child who is not detained, a juvenile court dependent in out-of-home care, or the ward of a legal guardian, the agency shall inform the birth parent of:
- (1) The parent's right to seek legal counsel to assist him or her in the relinquishment process:
 - (A) Upon the parent's request, the agency shall refer the parent to legal resources, including:
 1. Attorney referral services,
 2. Legal aid offices, or
 3. Other known public legal assistance.

35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM THE PARENT'S CARE (Continued)

- (B) If the child is a juvenile court dependent, the agency also shall inform the parent of the possible availability of legal counsel and the notice requirement of Family Code Section 8700(h) as specified in Section 35129.2(b)(1).
- (2) The reason, if any, the agency believes the parent is a presumed father of the child.

HANDBOOK BEGINS HERE

- (A) Refer to Sections 35128(d)(1)(B)1., 2., and 3. for the discussion of a presumed father.

HANDBOOK ENDS HERE

- (B) The agency shall explain that if he does not believe he is the father, but agrees to the adoption, he may:
 - 1. Sign a relinquishment document stating that, although he is relinquishing his parental rights, he does not believe that he is the father of the child.

HANDBOOK BEGINS HERE

- a. The relinquishment documents to be used by presumed fathers who deny paternity are specified in Sections 35145(b)(2), (c)(2), and (d)(3).

HANDBOOK ENDS HERE

- 2. File a petition with the court asking the court to determine that he is not the child's father.
- (3) Alternatives to adoptive placement of the child including, but not limited to:
 - (A) Services which would assist the birth parent in caring for the child, including:
 - 1. Financial resources such as child support and Temporary Assistance to Needy Families (TANF).
 - 2. Employment resources such as vocational training and Employment Development Department services.
 - 3. Educational resources such as continuation school and General Equivalency Diploma programs.

35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM THE PARENT'S CARE (Continued)

4. Child care resources, including the availability of subsidized day care.
 5. Housing resources such as shared housing with relatives or nonrelatives and government subsidized housing.
 6. Health service resources such as well baby clinics, Child Health and Disability Prevention Programs (CHDP), California Children's Services, and Medi-Cal.
- (B) Services, such as voluntary foster care placement or temporary placement with extended family members, which would give the parent more time to determine the most appropriate plan for the child.
- (4) Alternative forms of adoption, including a description of the full procedures and time frames involved in each type, which at a minimum shall include discussion of the following:
- (A) Standard agency (relinquishment) adoption
1. The birth parent transfers his or her rights and responsibilities for the child to an adoption agency by signing a relinquishment of the child to the agency.
 - a. The birth parent's legal rights and responsibilities for the child end when the relinquishment is filed with the department.
 - (i) Filing includes the department's receipt and acknowledgment of a certified copy of the relinquishment form.

HANDBOOK BEGINS HERE

- A. The definition of "Filing of the Relinquishment Form" is located at Section 35000(f)(3).
- (ii) After receiving a certified copy of the relinquishment form, the department will review it and, if appropriate, issue an acknowledgment.
 - A. The definition of "Acknowledgment" is located at Section 35000(a)(2).

HANDBOOK ENDS HERE

- b. The relinquishment is submitted to the department on a date agreed to by the birth parent and the agency.

**35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM
THE PARENT'S CARE (Continued)**

HANDBOOK BEGINS HERE

- (i) The relinquishment is usually submitted to the department less than 30 days after it is signed.

HANDBOOK ENDS HERE

- c. The birth parent may revoke the relinquishment before it is filed with the department.
 - d. The birth parent may not rescind the relinquishment after it is filed with the department unless the adoption agency agrees.
 - 2. The prospective adoptive parents must be assessed and approved by the adoption agency before the child is placed for adoption with the family.
 - 3. The agency, not the birth parent, selects the adoptive parents, and the birth parent may or may not know the identity of the adoptive parents.
- (B) Designated agency (relinquishment) adoption
- 1. These adoptions are the same as standard agency adoptions except that:
 - a. The birth parent participates in the selection of the adoptive parents,
 - b. The birth parent knows the identity of the adopting parents, and
 - c. The birth parent has a right to rescind his or her relinquishment and thus regain his or her parental rights and responsibilities if the child is not placed with the selected family or if the placement disrupts prior to completion of the adoption.
- (C) Independent adoption by relatives

HANDBOOK BEGINS HERE

- 1. Eligible relatives include the child's grandparent, aunt, uncle, first cousin or sibling.

HANDBOOK ENDS HERE

- 2. The birth parent agrees to the prospective adopting parents' proposed adoption of the child by signing a consent to the adoption.

35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM THE PARENT'S CARE (Continued)

- a. The birth parent continues to be legally responsible for the child until the adoption is completed.

HANDBOOK BEGINS HERE

- (i) The adoption typically is completed within 9 months after the petition is filed.

HANDBOOK ENDS HERE

- b. The consent to the adoption becomes irrevocable on the 91st day after it is signed unless the birth parent waives the right to revoke the consent before the 90 days expire.
 - (i) The first day of the 90-day period is the day the consent is signed.
 - c. The birth parent may revoke the consent and, if he or she has legal custody, reclaim the child at any time before the consent becomes irrevocable.
 - (i) When the consent becomes irrevocable, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.
 - d. The signing of a consent does not obligate the prospective adoptive parents to complete the adoption.
3. The prospective adoptive parents are evaluated as to their suitability to adopt either prior to the placement or after the child has begun living with them and they have filed a petition to adopt with the court.
 4. The birth parent selects the adoptive parents.
 5. The child begins living with the prospective adoptive parents before parental rights have been terminated.

**35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM
THE PARENT'S CARE (Continued)**

- (D) Independent adoption by nonrelatives
1. Each placing birth parent is advised by an adoption service provider before agreeing to the prospective adopting parents' proposed adoption of the child by signing a placement agreement, and any non-placing birth parents agree to the proposed adoption by signing a consent.
 - a. The birth parent continues to be legally responsible for the child until the adoption is completed.

HANDBOOK BEGINS HERE

- (i) The adoption typically is completed within 7 months after the petition is filed.

HANDBOOK ENDS HERE

- b. A placement agreement becomes an irrevocable consent to the adoption on the 91st day after it is signed unless the birth parent waives the right to revoke the consent before the 90 days expire.
 - (i) The first day of the 90-day period is the day the consent is signed.
- c. The non-placing parent's consent becomes irrevocable on the 91st day after it is signed unless he or she waives the right to revoke the consent before the 90 days expire.
 - (i) When the placement agreement or consent becomes an irrevocable consent, custody of the child may be regained by the birth parent only if the potential adoptive parents agree to withdraw their petition for adoption or the court denies the petition for adoption.
- d. The birth parent may revoke the placement agreement or consent and, if he or she has legal custody, reclaim the child at any time before the placement agreement or consent becomes an irrevocable consent.

35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM THE PARENT'S CARE (Continued)

- e. The signing of a placement agreement or consent does not obligate the prospective adoptive parents to complete the adoption.
 2. The prospective adoptive parents are evaluated as to their suitability to adopt either prior to the placement or after the child has begun living with them and they have filed a petition to adopt with the court.
 3. The birth parent selects the adoptive parents.
 4. The child usually begins living with the prospective adoptive parents when a parent with legal custody has signed an adoptive placement agreement.
- (5) The agency's adoption plan for the child, should the child be relinquished or become available for adoption due to the court's termination of the parents' rights.
- (A) The agency shall advise the parent regarding the extent to which the agency will allow his or her participation in the selection of the adoptive family.
- (6) The fact that the agency may petition the court for termination of the parent's parental rights if another parent has relinquished the child to the agency or has had his or her parental rights terminated by court action and that the parent has the right to seek legal counsel to contest and appeal any such action taken by the agency.
- (7) The rights and responsibilities of the parent as outlined on the Statement of Understanding.

HANDBOOK BEGINS HERE

- (A) The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is the AD 885, which is described in Section 35152.1(b)(1).
- (B) The Statement of Understanding for the parent whose child is subject to the ICWA is the AD 899, which is described in Section 35152.2(b)(1).

HANDBOOK ENDS HERE

35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM THE PARENT'S CARE (Continued)

- (C) The agency shall review each item on the Statement of Understanding with the birth parent to be certain that the birth parent understands the meaning of each item.
 - (D) The agency shall answer any questions the birth parent has about the meaning of any item.
- (c) When advising an alleged natural father of a child who is not detained, a juvenile court dependent in out-of-home care, or the ward of a legal guardian, the agency shall inform the alleged natural father of:
- (1) The reason the agency considers him to be the alleged natural father and that he may:
 - (A) File a petition with the court to establish paternity if he wishes to take parental responsibility for the child,
 - (B) Deny paternity,
 - (C) Waive his rights to further notice of the adoption proceedings,
 - (D) Sign a relinquishment, or
 - (E) Take no action.
 - (2) His right to seek legal counsel to assist him in taking any of the actions described in Section 35129.1(c)(1).
 - (A) Upon his request, the agency shall refer him to legal resources, including:
 - 1. Attorney referral services,
 - 2. Legal aid offices, or
 - 3. Other known public legal assistance.
 - (3) Alternatives to adoptive placement of the child, should he be successful in obtaining legal custody of the child, including, but not limited to:
 - (A) Services which would assist him in caring for the child, including:

35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM THE PARENT'S CARE (Continued)

1. Financial resources such as child support and Temporary Assistance to Needy Families (TANF).
 2. Employment resources such as vocational training and Employment Development Department services.
 3. Educational resources such as continuation school and General Equivalency Diploma programs.
 4. Child care resources, including the availability of subsidized day care.
 5. Housing resources such as shared housing with relatives or nonrelatives and government subsidized housing.
 6. Health service resources such as well baby clinics, Child Health and Disability Prevention Programs (CHDP), California Children's Services, and Medi-Cal.
- (B) Services, such as voluntary foster care placement or temporary placement with extended family members, which would give the parent more time to determine the most appropriate plan for the child.
- (4) Alternative forms of adoption, including a description of the full procedures and time frames involved in each type, as described in Section 35129.1(b)(4).
- (5) The agency's adoption plan for the child.
- (A) The agency shall determine which of the actions in Section 35129.1(c)(1) the alleged natural father wishes to take.
- (B) Advise the alleged natural father regarding the extent to which the agency will allow him to participate in the selection of the adoptive family, should he decide to relinquish the child to the agency.
- (6) The fact that the agency may petition the court for termination of his parental rights if he seeks to establish paternity or if he takes no action and that he has the right to seek legal counsel to contest and appeal any such action taken by the agency.

**35129.1 ADVISEMENT OF THE PARENT WHOSE CHILD HAS NOT BEEN REMOVED FROM
THE PARENT'S CARE (Continued)**

- (7) The rights and responsibilities of the alleged natural father as outlined on the Statement of Understanding.

HANDBOOK BEGINS HERE

- (A) The Statement of Understanding for the alleged natural father whose child is not subject to the Indian Child Welfare Act (ICWA) is the AD 885C, which is described in Section 35152.1(b)(4).
- (B) The Statement of Understanding for the alleged natural father whose child is subject to the ICWA is the AD 899C, which is described in Section 35152.2(b)(4).

HANDBOOK ENDS HERE

- (C) The agency shall review each item on the Statement of Understanding with the alleged natural father to be certain that he understands the meaning of each item.
- (D) The agency shall answer any questions the alleged natural father has about the meaning of any items.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Sections 8616.5, 8621, 8710, and 9202, Family Code. Reference: Sections 1798.24(r) and (s), Civil Code; Sections 8608, 8700, 8701, 8702, 8703, 8704, 8706, 8708, 8709, 8710, 8711, 8714.5, 9202, 9203, 9204, and 9206, Family Code; Section 10850(b), Welfare and Institutions Code; and Section 10439, Health and Safety Code.

35129.2 ADVISEMENT OF THE PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE PARENT'S CARE**HANDBOOK BEGINS HERE**

- (a) The purpose of advise to this category of parent is twofold. Advice ensures that the parent understands the availability of child welfare and legal services and the significance and finality of relinquishment. The parent's eligibility for family reunification services is determined by the juvenile court. If the parent is uncertain of his or her eligibility for family reunification services and the availability of these services would affect the parent's decision to relinquish, he or she should seek this information from the child welfare services social worker or his or her attorney before signing a relinquishment. Advice also ensures that the relinquishment is signed voluntarily. The mother or presumed father of a child who has been found to come within Welfare and Institutions Code Section 300 or is the subject of a petition for jurisdiction of the juvenile court under Welfare and Institutions Code Section 300 may relinquish the child for adoption. The parent also may petition the juvenile court to obtain physical custody of the child. If he or she is successful in obtaining custody and subsequently wants to relinquish, the agency must proceed pursuant to the requirements of Section 35129.1(b).

HANDBOOK ENDS HERE

- (b) When advising a mother or presumed father who is considering the relinquishment of a child who is detained, a juvenile court dependent in out-of-home care, or the ward of a legal guardian, the agency shall inform the birth parent of:
- (1) The parent's right to seek legal counsel from the attorney representing him or her in the dependency case to assist him or her in the relinquishment process or in regaining custody of the child.
- (A) The agency shall encourage the parent to discuss the decision to relinquish with his or her attorney.
- (B) The agency shall inform the parent that the agency must follow the notice requirements of Family Code Section 8700(h).

35129.2 ADVISEMENT OF THE PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE PARENT'S CARE (Continued)**HANDBOOK BEGINS HERE**

1. Family Code Section 8700(h) states:

"If the parent has relinquished a child, who has been found to come within Section 300 of the Welfare and Institutions Code or is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code, to the department or a licensed adoption agency for the purpose of adoption, the department or agency accepting the relinquishment shall provide written notice of the relinquishment within five court days to all of the following:

- a. The juvenile court having jurisdiction of the child.
- b. The child's attorney, if any.
- c. The relinquishing parent's attorney, if any."

HANDBOOK ENDS HERE

- (C) If the child is the subject of a guardianship, the parents shall be referred to legal counsel as specified in Section 35129.1(b)(1).
- (2) The reason, if any, the agency believes the parent is a presumed father of the child.

HANDBOOK BEGINS HERE

- (A) Refer to Sections 35128(d)(1)(B)1., 2., and .3 for discussion of a presumed father.

HANDBOOK ENDS HERE

- (B) The agency shall explain that if he does not believe he is the father, but agrees to the adoption, he may:
 1. Sign a relinquishment document stating that, although he is relinquishing his parental rights, he does not believe that he is the father of the child.

35129.2 ADVISEMENT OF THE PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE PARENT'S CARE (Continued)

HANDBOOK BEGINS HERE

- a. The relinquishment documents to be used by presumed fathers who deny paternity are specified in Sections 35145(b)(2), (c)(2) and (d)(3).

HANDBOOK ENDS HERE

- 2. File a petition with the court asking the court to determine that he is not the child's father.
- (3) The possible availability of child welfare and other services to assist the parent in obtaining the resources and skills necessary to parent the child.
- (A) The availability of such services is determined by the child's juvenile court status.
 - (B) The parent shall be referred to his or her child welfare services social worker if he or she either:
 - 1. Wants more information regarding available services before deciding whether to relinquish the child, or
 - 2. Does not want to relinquish the child.
 - (C) If the child is the subject of a guardianship established by the juvenile court, the parent shall be referred to the child welfare services social worker or unit that would initiate an action to reestablish dependency pursuant to Welfare and Institutions Code Section 366.3(c).

35129.2 ADVISEMENT OF THE PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE PARENT'S CARE (Continued)**HANDBOOK BEGINS HERE**

1. Welfare and Institutions Code Section 366.3(c) states:

"If, following the establishing of a legal guardianship, the county welfare department or probation department becomes aware of changed circumstances that indicate adoption may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the minor and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued guardianship is the most appropriate plan for the minor. The hearing shall be held no later than 120 days from the date of the order. Whenever the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment under subdivision (b) of Section 366.22."

HANDBOOK ENDS HERE

- (D) If the child is the subject of a guardianship established by the probate court, the parent shall be referred to services as specified in Section 35129.1(b)(2).
- (4) Alternative forms of adoption, including a description of the full procedures and time frames involved in each type, as described in Section 35129.1(b)(4).
- (5) The agency's adoption plan for the child.
 - (A) The agency shall advise the parent regarding the extent to which the agency will allow his or her participation in the selection of the adoptive family.
- (6) The fact that the juvenile court may terminate the parent's parental rights if the court determines that reunification is not possible and that the parent has the right to seek legal counsel from his or her attorney in the dependency case to contest and appeal any such action taken by the court.
- (7) The rights and responsibilities of the parent as outlined on the Statement of Understanding.

35129.2 ADVISEMENT OF THE PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE PARENT'S CARE (Continued)

HANDBOOK BEGINS HERE

- (A) The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is the AD 885A, which is described in Section 35152.1(b)(2).
- (B) The Statement of Understanding for the parent whose child is subject to the ICWA is the AD 899A, which is described in Section 35152.2(b)(2).

HANDBOOK ENDS HERE

- (C) The agency shall review each item on the Statement of Understanding with the birth parent to be certain that the birth parent understands the meaning of each item.
 - (D) The agency shall answer any questions the birth parent has about the meaning of any items.
- (c) When advising an alleged natural father of a child who is detained, a juvenile court dependent in out-of-home care, or the ward of a legal guardian, the agency shall inform the alleged natural father of:
- (1) The reason the agency considers him to be the alleged natural father and that he may:
 - (A) File a petition with the juvenile court to establish paternity if he wishes to take parental responsibility for the child,
 - 1. If the child is the subject of a guardianship established by the probate court, the petition is filed in the family court.
 - (B) Deny paternity,
 - (C) Waive his rights to further notice of the adoption proceedings,
 - (D) Sign a relinquishment, or
 - (E) Take no action.
 - (2) His right to seek legal counsel to assist him in taking any of the actions described in Section 35129.2(b)(1).

35129.2 ADVISEMENT OF THE PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE PARENT'S CARE (Continued)

- (A) Upon his request, the agency shall refer him to legal resources, including:
1. Attorney referral services,
 2. Legal aid offices, or
 3. Other known public legal assistance.
- (3) The possible availability of child welfare and other services to assist the parent in obtaining the resources and skills necessary to parent the child.
- (A) The availability of such services is determined by the child's juvenile court status and the father's legal relationship to the child.
- (B) The alleged natural father shall be referred to the child's child welfare services social worker if he either:
1. Wants more information regarding available services before deciding whether to relinquish the child, or
 2. Does not want to relinquish the child.
- (C) If the child is the subject of a guardianship established by the juvenile court, the parent shall be referred to the child welfare services social worker or unit that would initiate an action to reestablish dependency pursuant to Welfare and Institutions Code Section 366.3(c).

HANDBOOK BEGINS HERE

1. Welfare and Institutions Code Section 366.3(c) is located at Section 35129.2(b)(3)(C)1.

HANDBOOK ENDS HERE

- (D) If the child is the subject of a guardianship established by the probate court, the parent shall be referred to services as specified in Section 35129.1(b)(2).

35129.2 ADVISEMENT OF THE PARENT WHOSE CHILD HAS BEEN REMOVED FROM THE PARENT'S CARE (Continued)

- (4) Alternative forms of adoption, including a description of the full procedures and time frames involved in each type, as described in Section 35129.1(b)(4).
- (5) The agency's adoption plan for the child.
 - (A) The agency shall determine which of the actions in Section 35129.2(b)(1) the alleged natural father wishes to take.
 - (B) Advise the father regarding the extent to which the agency will allow his participation in the selection of the adoptive family.
- (6) The fact that the juvenile court may terminate his parental rights if he seeks to establish paternity or if he takes no action and that he has the right to seek legal counsel to contest and appeal any such action taken by the court.
- (7) The rights and responsibilities of the alleged natural father as outlined on the Statement of Understanding.

HANDBOOK BEGINS HERE

- (A) The Statement of Understanding for the alleged natural father whose child is not subject to the Indian Child Welfare Act (ICWA) is the AD 885D, which is described in Section 35152.1(b)(4).
- (B) The Statement of Understanding for the alleged natural father whose child is subject to the ICWA is the AD 899D, which is described in Section 35152.2(b)(4).

HANDBOOK ENDS HERE

- (C) The agency shall review each item on the Statement of Understanding with the alleged natural father to be certain that he understands the meaning of each item.
- (D) The agency shall answer any questions the alleged natural father has about the meaning of the items.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Sections 8621, 8710, and 9202, Family Code. Reference: Sections 1798.24(r) and (s), Civil Code; Sections 8608, 8700, 8701, 8702, 8703, 8704, 8706, 8708, 8709, 8710, 8711, 8714.7, 9202, 9203, 9204, and 9206, Family Code; Section 10850(b), Welfare and Institutions Code; and Section 10439, Health and Safety Code.

35129.3**INFORMATION AND AUTHORIZATION**

- (a) In addition to the identifying and nonidentifying information provided by the birth parents on the AD 67 and the AD 67A, the agency shall obtain the following information from other individuals or agencies:
- (1) Verification of the birth mother's marital history.
 - (A) When verification of the dissolution of all marriages of the birth mother is not possible, the marriages preceding a verified divorce decree shall be assumed to have been validly dissolved.

HANDBOOK BEGINS HERE

1. A valid divorce presupposes that the marriage was valid.

HANDBOOK ENDS HERE

- (2) Birth parent's medical background, including illnesses, diseases, or defects of a hereditary or genetic nature, as required by Family Code Section 8706, including, if available, the medical history of the birth parent's extended family.

HANDBOOK BEGINS HERE

- (A) The content of Family Code Section 8706 is located at Section 35195(a)(1).

HANDBOOK ENDS HERE

- (3) Reports regarding the birth mother from the prenatal physician and the physician who delivered the child, or from the hospital in which the child was born, if available. The reports shall include the following:
 - (A) Information about medications taken by the birth mother during pregnancy.
 - (B) Information about complications of pregnancy or delivery.
- (4) Existing reports or evaluations regarding the birth parent from medical or mental health professionals and hospitals or institutions in which the birth parent has been an in-patient or out-patient.

35129.3 INFORMATION AND AUTHORIZATION (Continued)

- (5) If any documentation or oral report indicates that the birth parent may be of Indian ancestry, the agency shall obtain that information required by Section 35357(a) before accepting the relinquishment.

HANDBOOK BEGINS HERE

- (6) In addition to the requirements of this section, the agency may obtain and file in the adoption case record other information pertaining to the background of the birth parent. This information includes, but is not limited to, information regarding the birth parent's physical description, education, occupation, hobbies and interests, parents, grandparents, and siblings.

HANDBOOK ENDS HERE

- (b) If the agency receives a report or evaluation that is illegible or the photocopy is unclear, the agency shall return it to the source with a request for a clear, legible copy.
- (c) The agency shall document in the adoption case record and in the court report the reason(s) that the agency was unable to obtain any of the reports, documents, or information described in Section 35129.3(a).
- (1) The agency shall indicate the name of any such report or documentation that was not obtained and the reason(s) that the information is not part of the child's medical report on the AD 512.
- (d) The agency shall attempt to obtain the birth mother's and the birth father's authorization for the release of information prior to fulfilling the requirements of Section 35129.3(a).
- (1) The agency shall use the AD 100 to obtain the birth parents' authorizations for the release of information pursuant to this section.
- (A) The agency shall indicate on the AD 100, in the space provided, that the prospective adoptive parents and the agency are authorized to receive the information being sought.
- (2) On the AD 100, the agency shall advise the birth parent and the source to whom the authorization is to be sent of the following:
- (A) All nonidentifying information obtained from the source will be given to the prospective adoptive parents prior to the finalization of adoption.

35129.3**INFORMATION AND AUTHORIZATION (Continued)**

- (B) All nonidentifying information obtained from the source will be given to the adoptive parents of an adoptee under age 18 and to the adult adoptee, upon written request, in post-adoption services.
- (C) No identifying information about either the child or his or her birth parents shall be disclosed to the adopting parents or the adult adoptee unless permitted by law.

HANDBOOK BEGINS HERE

- (3) If it is not possible to obtain the birth mother's or birth father's authorization, the agency may utilize a court order to obtain the information specified in Section 35129.3(a).

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608(a) and 8621, Family Code. Reference: Sections 7600 et seq., 8706, 8715, and 9202, Family Code; Section 10553(e), Welfare and Institutions Code; and 25 U.S.C. 1901 et seq.

SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS**Article 4 Prerequisites to Accepting a Relinquishment****35130 NUMBER OF INTERVIEWS FOR PARENTS CONSIDERING RELINQUISHMENT**

- (a) The agency shall provide a minimum of two face-to-face interviews with a parent who is considering relinquishment and who resides in California.
- (1) The required interviews shall be provided over a period of two or more days.
- (A) At least one interview shall be held after the birth of the child.

HANDBOOK BEGINS HERE

- (B) The agency may accept the relinquishment at the end of the second interview.

HANDBOOK ENDS HERE

- (2) The agency shall provide the relinquishing parent with a sample copy of the relinquishment document and the Statement of Understanding at the first interview for his or her review.
- (3) During the interview, the agency shall explain to the parent the purpose of the agency and the services it provides.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code.

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35131 BEFORE ACCEPTING RELINQUISHMENT FOR CHILDREN UNDER THE ICWA

- (a) Before accepting the parent's relinquishment of the child who comes within the provisions of the ICWA, the agency shall:
- (1) Provide birth parent services and advice as appropriate to the category of parent as described at Sections 35129, 35129.1, 35129.2, and 35129.3.
 - (2) Provide additional services as set forth at Section 35369.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code; and 25 USC Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

35133 COUNSELING PRIOR TO ACCEPTING THE RELINQUISHMENT

Repealed by Manual Letter No. AD-98-01, effective 8/1/98.

35135 AGENCY DETERMINATIONS BEFORE ACCEPTING A RELINQUISHMENT

- (a) Before accepting the parent's relinquishment of a child for adoption, the agency shall determine and document in the case record:
- (1) That the parent has chosen the plan of adoption for the child and freely chooses to relinquish the child.
 - (2) That the agency is able to place the child for adoption.
 - (3) Whether the child is subject to the provisions of the ICWA.
 - (A) If the child is subject to the provisions of the ICWA, the agency shall inform the parents of the provisions of the ICWA as set forth in Subchapter 8.
 - (B) (Reserved)

HANDBOOK BEGINS HERE

- (B) Refer to Section 35357 regarding obtaining information from the birth parents of a child of Indian heritage.

HANDBOOK ENDS HERE

**35135 AGENCY DETERMINATIONS BEFORE ACCEPTING A RELINQUISHMENT
(Continued)**

- (4) That the parent has received required services and advisement as appropriate to the category of parents as described in Sections 35129, 35129.1, 35129.2, and 35129.3.

HANDBOOK BEGINS HERE

- (A) Legal residence in California is not required.

HANDBOOK ENDS HERE

- (5) That the parent has the ability to understand the content, nature and effect of signing the relinquishment.
- (A) If the agency representative's observation or knowledge of the parent's history or current condition indicates that the parent may not have the ability to understand the content, nature, and effect of signing the relinquishment, the agency representative shall refer the parent to a licensed physician or to a licensed clinical psychologist for an evaluation of the parent's ability to understand prior to accepting the parent's signature on the relinquishment.
1. An evaluation shall be required in at least the following circumstances:
 - a. The parent is receiving SSI/SSP for mental illness or developmental disability.
 - b. The parent has received psychiatric treatment and/or medication for mental illness or disease within the past two years.
 2. The agency shall obtain a written authorization from the parent for release of the evaluation.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code.

SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS**Article 5 Accepting the Relinquishment****35137 ACCEPTING A RELINQUISHMENT AFTER EVALUATION**

- (a) The agency shall accept the relinquishment:
- (1) Only if the evaluation required at Section 35135(a)(5)(A) establishes the parent's ability to understand the content, nature, and effect of signing the relinquishment.
 - (2) No later than 30 days after the evaluation required at Section 35135(a)(5)(A) is completed.
 - (3) From a parent for whom the court has appointed a conservator only if the order of conservatorship specifically allows the parent to relinquish his or her child for adoption and the evaluation required at Section 35135(a)(5)(A) establishes the parent's ability to understand the content, nature, and effect of relinquishing the child to the agency for adoption.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code.

35139 ACCEPTING THE RELINQUISHMENT OF A NEWBORN NOT SUBJECT TO THE ICWA

- (a) (Reserved)

HANDBOOK BEGINS HERE

- (a) Refer to Section 35375(a) regarding acceptance of relinquishment of children subject to the ICWA.

HANDBOOK ENDS HERE

- (b) The agency shall accept a relinquishment from the parent of a child not subject to the ICWA only after the child is born.
- (1) The agency shall accept the mother's relinquishment of a newborn only after she has been medically discharged from the hospital; unless the mother's hospitalization after delivery is extended beyond five days.

**35139 ACCEPTING THE RELINQUISHMENT OF A NEWBORN NOT SUBJECT TO THE ICWA
(Continued)**

- (A) The agency shall be permitted to accept the mother's relinquishment of the newborn while the mother is hospitalized after obtaining a written statement from the attending physician that the mother is not suffering from a known physical or mental impairment which would preclude the mother's ability to relinquish the child for adoption.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code.

35141 FILING OPTIONS FOR THE RELINQUISHING PARENT

- (a) The agency representative shall inform all parents:
 - (1) Of the time frame options for the filing of the signed relinquishment form with the department.
 - (A) The parent shall be permitted to request that the signed relinquishment form be filed without a holding period.
 - (B) The parent shall be permitted to have the signed relinquishment form held for a specified period of up to 30 days before the agency submits it to the department for filing.
 - (2) That the signed relinquishment form will be held more than 30 days if questions about the right of any other parent to the legal custody of the child have not been resolved.
 - (A) The parent and the agency shall mutually agree in writing to the extended period.
 - 1. The written agreement shall specify the time period the relinquishment form will be held and the reason for holding the form more than 30 days.

35141 FILING OPTIONS FOR THE RELINQUISHING PARENT (Continued)

2. If the specific number of days cannot be stated in advance, the extended period shall end with the resolution of all other parents' rights to the legal custody of the child as follows:
 - (i) The agency shall inform the relinquishing parent in writing within three working days of the agency's knowledge of the resolution of the custody issues.
 - (ii) The extended period shall end five working days after the date of the notice to the relinquishing parent.
 3. The written agreement to extend the holding period to more than 30 days shall be signed by the parent and the agency's representative.
- (3) That the parent is permitted to revoke his or her relinquishment at any time prior to the expiration of any holding period and at any time before the relinquishment form is filed by the department.
- (A) If the last day of any such holding period falls on a weekend or legal holiday, the agency shall permit the parent to revoke the relinquishment on the next working day following the weekend or holiday.
- (4) That the agency shall not place the child for adoption prior to the relinquishment form being filed by the department.

HANDBOOK BEGINS HERE

- (5) Refer to Subchapter 5, Article 3 regarding revocation procedures.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code.

35143 RELINQUISHMENT FORM PROVIDED BY THE DEPARTMENT

- (a) Providing all other requirements are met, the agency shall only accept a relinquishment on forms provided by the department.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code.

35145 IDENTIFYING INFORMATION ON THE RELINQUISHMENT DOCUMENT

- (a) The relinquishment document shall provide for identification of:
- (1) The child's:
 - (A) Name as identified on the birth certificate.
 1. Any discrepancy between the name of the child on the relinquishment form and on the birth certificate shall be clarified by an affidavit, signed by the authorized representative of the agency who accepted the relinquishment of the child.
 - (i) The affidavit shall be filed with the court when the court report and relinquishment form are filed.
 - (ii) A copy of the affidavit shall be sent to the department when the certified copy of the relinquishment form is filed.
 - (B) Sex.
 - (C) Birthdate.
 - (D) Place of birth.
 - (2) The name of the relinquishment parent.

HANDBOOK BEGINS HERE

- (A) The name of the parent includes all aliases used by the parent in legal transactions, e.g., the name on his or her driver's license, welfare check, social security card, veteran's or military documents and any other names by which the parent is known.

HANDBOOK ENDS HERE

35145 IDENTIFYING INFORMATION ON THE RELINQUISHMENT DOCUMENT (Continued)

- (3) The agency's name, address, and telephone number.
- (4) The name or names of the person or persons with whom the relinquishing parent intends that placement of the child for adoption be made by the agency, if the relinquishing parent chooses to name such person or persons.
 - (A) If the relinquishing document does not provide for identification of the person or persons, the name or names shall be stated on the AD 922 signed by the relinquishing parent and attached to the relinquishment document, in which case neither page alone shall constitute a valid relinquishment.
 1. A relinquishment document to which the AD 922 is attached shall include substantially the following statement: "This relinquishment document includes a second page that names the person or persons with whom i/we intend that the child be placed for adoption."
- (b) When the relinquishing parent does not name the person or persons with whom he or she intends that placement of the child for adoption be made by the agency and the child is not subject to the Indian Child Welfare Act, the following relinquishment document shall be used for taking the relinquishment of:
 - (1) A Mother or Presumed Father not Denying Paternity:
 - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 501.
 - (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 503.
 - (C) Not in California and not signing before military officer: AD 501A.
 - (D) Not in California and signing before military officer: AD 504.
 - (2) A Presumed Father Denying Paternity:
 - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 585.

35145 IDENTIFYING INFORMATION ON THE RELINQUISHMENT DOCUMENT (Continued)

- (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 583.
- (C) Not in California: AD 584.
- (3) An Alleged Father not Denying Paternity:
 - (A) In California: AD 586.
 - (B) Not in California and not signing before military officer: AD 591.
 - (C) Not in California and signing before military officer: AD 593.
- (4) An Alleged Father Denying Paternity: AD 588.
- (5) An Alleged Father Waiving Right to Further Notice: AD 590.
- (c) When the relinquishing parent does not name the person or persons with whom he or she intends that placement of the child for adoption be made by the agency and the child is subject to the Indian Child Welfare Act, the following relinquishment document shall be used for taking the relinquishment of:
 - (1) A Mother or Presumed Father not Denying Paternity:
 - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 864.
 - (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 865.
 - (C) Not in California: AD 863.
 - (2) A Presumed Father Denying Paternity:
 - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 866.
 - (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 873.

35145 IDENTIFYING INFORMATION ON THE RELINQUISHMENT DOCUMENT (Continued)

- (C) Not in California: AD 867.
- (3) An Alleged Father not Denying Paternity:
 - (A) In California: AD 868.
 - (B) Not in California: AD 862.
- (d) When the relinquishing parent names the person or persons with whom he or she intends that placement of the child for adoption be made by the agency the following relinquishment document shall be used for taking the relinquishment of:
 - (1) A Mother or Presumed Father not Denying Paternity and not Subject to Indian Child Welfare Act:
 - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 921.
 - (2) An Alleged Father not Denying Paternity and not Subject to Indian Child Welfare Act:
 - (A) In California: AD 920.
 - (3) An individual in all other relinquishment circumstances: The relinquishment document listed in Sections 35145(b) or (c) which is appropriate to the relinquishing parent's status and the AD 922.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 8700, Family Code.

35149 **ACCEPTING THE RELINQUISHMENT DOCUMENT**

- (a) The agency shall accept the parent's relinquishment document as follows:
- (1) For parents of children who come within the provisions of the ICWA, additional requirements shall be followed in accordance with Subchapter 8, Articles 4 and 5.
 - (A) (Reserved)

HANDBOOK BEGINS HERE

- (A) In order to answer any questions the parent may have, the agency may want to review the relinquishment document with the parent before he or she signs it in court.

HANDBOOK ENDS HERE

- (B) In requests for out-of-state relinquishments of Indian children, the agency shall include instructions to accept the relinquishment in accordance with the requirements of the ICWA.
- (2) The relinquishment document shall be signed:
- (A) After the Statement of Understanding has been signed pursuant to Section 35149.
 - (B) In the presence of the agency representative and two witnesses if signed in California.
 - 1. The witnesses shall be at least 18 years of age.

HANDBOOK BEGINS HERE

- 2. Because the agency representative is a party to the relinquishment, he or she may not be one of the witnesses.

HANDBOOK ENDS HERE

- (C) In the presence of an authorized child welfare services agency representative or before a notary public if accepted from out-of-state pursuant to Family Code Section 8700(c).

35149

ACCEPTING THE RELINQUISHMENT DOCUMENT**HANDBOOK BEGINS HERE**

1. Family Code Section 8700(c) is located at Section 35151(a)(3)(B)1.
2. In obtaining an out-of-state relinquishment, the agency should refer the parent to an authorized or accredited adoption agency in the parent's own state.
3. The use of a reader or translator by the out-of-state agency should be verified by the out-of-state agency.

HANDBOOK ENDS HERE

- (D) Pursuant to the provisions of Civil Code Section 1183, if signed outside of the United States.

HANDBOOK BEGINS HERE

1. The content of Civil Code Section 1183 is located at Handbook Section 35151(a)(3)(C)1.

HANDBOOK ENDS HERE

- (3) At the time the relinquishment document for adoption is signed, the agency shall:
- (A) Request the parent to read and sign the AD 908 pursuant to Family Code Section 8702.

HANDBOOK BEGINS HERE

1. Family Code Section 8702 states:

"(a) The department shall adopt a statement to be presented to the birth parents at the time a relinquishment is signed and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner and in words calculated to ensure the confidence of the birth parent in the integrity of the adoption process, communicate to the birth parents of a child who is the subject of an adoption petition all of the following facts:

"(1) It is in the child's best interest that the birth parent keep the department or licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.

HANDBOOK CONTINUES

35149 ACCEPTING THE RELINQUISHMENT DOCUMENT (Continued)

HANDBOOK CONTINUES

"(2) It is extremely important that the birth parent keep an address current with the department or licensed adoption agency to whom the child was relinquished for adoption in order to permit a response to inquiries concerning medical or social history.

"(3) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 to request the department or the licensed adoption agency to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

"(4) The birth parent may change the decision whether to permit disclosure of the birth parent's name and address disclosed, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department or to the licensed adoption agency that joined in the petition for adoption.

"(5) The relinquishment will be filed in the office of the county clerk of the county in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceeding, their attorneys, and the department, except upon order of a judge of the superior court.

"(b) The department shall adopt a form to be signed by the birth parents at the time the relinquishment is signed which shall provide as follows:

"Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 to make a request to the California Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee's birth parent. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

YES

NO

UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY
AT LATER DATE"

HANDBOOK ENDS HERE

35149 ACCEPTING THE RELINQUISHMENT DOCUMENT (Continued)

- (B) Advise the parent of the provisions of Family Code Section 8701.

HANDBOOK BEGINS HERE

1. Family Code Section 8701 reads as states:

"At or before the time a relinquishment is signed, the department or licensed adoption agency shall advise the birth parent signing the relinquishment, verbally and in writing, that the birth parent may, at any time in the future, request from the department or agency all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The birth parent shall be advised that this information includes, but is not limited to, all of the following:

- "(a) Whether the child has been placed for adoption.
- "(b) The approximate date that an adoption was completed.
- "(c) If the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered."

HANDBOOK ENDS HERE

- (C) Accept the relinquishment by signing the acknowledgment portion of the relinquishment document.
- (D) Give the parent a copy of the completed relinquishment document.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 1183, Civil Code; Sections 8700, 8701, and 8702, Family Code; and 25 USC Sections 1903(1) and 1913.

SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS**Article 6 Accepting the Statement of Understanding****35151 ACCEPTING THE STATEMENT OF UNDERSTANDING**

- (a) The agency shall accept the parent's Statement of Understanding as follows:
- (1) For parents of children who come within the provisions of the ICWA, additional requirements shall be followed in accordance with Subchapter 8, Articles 4 and 5.

HANDBOOK BEGINS HERE

- (A) In order to answer any questions the parent may have, the agency may want to review the Statement of Understanding with the parent before he or she signs it in court.

HANDBOOK ENDS HERE

- (2) The agency shall obtain the parent's signature on the Statement of Understanding after he or she has:
 - (A) Indicated his or her understanding of the relinquishment process by reading and initialing each explanatory statement on the Statement of Understanding form.
 - (B) Indicated his or her preference regarding options for the filing of the relinquishment form.
- (3) The Statement of Understanding shall be signed:
 - (A) In the presence of the agency representative and two witnesses if signed in California.
 1. The witnesses shall be at least 18 years of age.

HANDBOOK BEGINS HERE

2. Because the agency representative is a party to the relinquishment, he or she may not be one of the witnesses.

HANDBOOK ENDS HERE

- (B) In the presence of an authorized child welfare services agency representative or before a notary public, if signed out-of-state pursuant to Family Code Section 8700(c).

HANDBOOK BEGINS HERE

1. Family Code Section 8700(c), states:

HANDBOOK CONTINUES

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35151 ACCEPTING THE STATEMENT OF UNDERSTANDING (Continued)**HANDBOOK CONTINUES**

- "(c) If a relinquishing parent resides outside this state and the child is being cared for and is or will be placed for adoption by the department or a licensed adoption agency, he or she may relinquish the child to the department or agency by a written statement signed by the relinquishing parent before a notary on a form prescribed by the department, and previously signed by an authorized official of the department or agency, which signifies the willingness of the department or agency to accept the relinquishment."
2. In obtaining an out-of-state relinquishment, the agency should refer the parent to an authorized or accredited adoption agency in the parent's own state.
 3. The use of a reader or translator by the out-of-state agency should be verified by the out-of-state agency.

HANDBOOK ENDS HERE

- (C) Pursuant to the provisions of Civil Code Section 1183, if signed outside of the United States.

HANDBOOK BEGINS HERE

1. Civil Code Section 1183 states:

The proof or acknowledgment of an instrument may be made without the United States, before any of the following:

"(a) A minister, commissioner, or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.

"(b) A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made.

"(c) A judge of a court of record of the country where the proof or acknowledgment is made.

"(d) Commissioners appointed by the Governor or Secretary of State for that purpose.

HANDBOOK CONTINUES

35151 ACCEPTING THE STATEMENT OF UNDERSTANDING (Continued)**HANDBOOK CONTINUES**

"(e) A notary public.

"If the proof or acknowledgment is made before a notary public, the signature of the notary public shall be proved or acknowledged (1) before a judge of a court of record of the country where the proof or acknowledgment is made, or (2) by any American diplomatic officer, consul general, consul, vice consul, or consular agent, or (3) by an apostille (certification) affixed to the instrument pursuant to the terms of The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents."

2. One Statement of Understanding may be signed by the parent for the relinquishment of more than one child if the status of the parent-child relationship is the same for all children relinquished; e.g., the parent has physical custody of all the children he or she relinquishes or a father is the presumed father of all the children he relinquishes.

HANDBOOK ENDS HERE

- (4) The agency shall give the parent the option of waiting a maximum of 14 calendar days before signing the relinquishment document.
 - (A) The agency shall complete a new Statement of Understanding if the maximum of 14 calendar days has elapsed and the parent desires to sign the relinquishment document.
- (5) After the agency representative signs the Statement of Understanding, the representative shall give the parent a copy of the signed form.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8621, Family Code. Reference: Section 1183, Civil Code and Section 8700(c), Family Code; and 25 USC Sections 1903(1) and 1913.