

Article 3
Adoption Policies and Control

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NOTE: Rule-making authority cited for formulation of regulation for Adoption Policies and Control Section of the Department of Public Health and Social Services by the Director of Public Health and Social Services, §2401, 10 GCA added by P.L. 11-99. These Rules and Regulations were filed with the Legislative Secretary on April 25, 1984.

§1301. Definition of Services. Adoption services can generally be defined as an option means and alternative for children who do not have the opportunity for a permanent home and familial relationship with their natural parents and wherein stable, nurturing, permanent family ties can best be established through legalized adoption.

§1302. Intent of the Law. According to Section 221.1 of the Civil Code of Guam and Public Law 13-133, the purpose of the adoption law is: "to protect and promote the welfare of children, natural parents and adoptive parents and thereby promote the welfare of the Territory of Guam."

The law, therefore, provides several basic safeguards, including the requirement that: the child be legally free for adoption; that natural parent's consent or termination of their parental rights have been secured by judicial decree; that the child is placed in an adoptive home by Social Services, except in relative adoptions; that social studies be submitted and considered prior to judgment on adoption petitioners; and that the child live in the adoptive home for a period of one year under the guidance and supervision of Social Services.

§1303. Adoption as Permanency Plan. A child shall be placed for adoption only upon a determination of either one of the following:

(a) Parent(s) relinquishing or giving child up for adoption.

(b) Court/agency determining that adoption is an appropriate goal to meet the physical and emotional needs of the child.

§1304. Assurances and Range of Services. (a) Services provided by the department shall thus:

(1) Insure that the rights of the legal parents are respected.

(2) Insure that the best interests of the child are protected.

(3) Insure that the adoptive parents are able to provide suitable care and supervision for the healthy growth and development of the child.

(b) The range of services provided shall include:

(1) Evaluative study of child's needs and potentialities.

(2) Recruitment, study and selection of prospective adoptive homes.

(3) Securing legal Termination of Parental Rights (TPR) when appropriate or required by law.

(4) Providing pre-placement and post-placement support services for children and adoptive parents.

(5) Conducting independent adoptive home studies for Superior Court and for off-island adoption agencies.

(6) Conducting an island-wide public information campaign concerning children with special needs and their need for permanent homes when appropriate.

§1305. Pre-Placement Services. The caseworker assigned to the parents of the child to be adopted shall be responsible for the following:

(a) Counseling parent(s) to help them make a free and voluntary decision.

(b) Counseling parent regarding the service alternatives to relinquishment and adoption.

(c) Discussing the meaning, procedures and consequences of adoption and relinquishment (TPR) procedures.

(d) Providing on-going counseling to the parent and child, when appropriate.

§1306. Evaluative Study of the Child An evaluative study of the child's needs and potentialities shall be conducted to:

(a) Understand the child and assess the health, physical and personality characteristics, current development and special needs.

(b) Determine whether the child's needs can best be met in adoptive placement.

(c) Determine what kind of family should be selected for the child.

§1307. Recruitment of Adoptive Parents. (a) The Agency shall recruit, study and approve adoptive applicants for children in need of adoption.

(b) Information about the Department's adoption program shall be provided by the intake worker to all who make such requests.

(c) The Agency shall accept all applications made by individual wishing to apply. An adoption questionnaire will also be completed by these individuals. Applications are valid from one year of date received and should be renewed annually. The Agency will send out reminders for renewal if at all possible. There shall be no discrimination against applicants because of ethnicity, sex, marital status, or lifestyle. However, with regard to age, applicants must be at least 18 years old, and 10 years older than the prospective adoptive child.

(d) Applications shall be filed and applicant names placed on a waiting list in order of date received.

(e) Once applications are submitted, no further contact is made unless, upon review of application, clarification is needed regarding points on the application or if the applicant is considered one of the three applicants pre-selected for a prospective adoptive child. A pre-adoption home study will then be conducted on these applicants.

§1308. Selection of Adoptive Parents - Adoption Screening Committee. (a) **Purpose:** The Adoption Screening Committee (ASC) has the responsibility of reviewing adoption applications and eventually selecting adoptive parents for each child legally available for adoption and/or given up to this agency for placement.

(b) **Composition of Committee:** The Adoption Section Committee shall be composed of, but not limited to, the following four (4) on-going members:

(1) The Adoption Supervisor.

(2) Natural Parent's caseworker or child(ren)'s caseworker.

(3) Adoption caseworker not involved in the case.

(4) A third social worker or other staff assigned by the Adoption Supervisor.

(c) **Chairman of the Committee.** The Chairman of the Committee shall be appointed by the Adoption Supervisor. Said Supervisor may assume the position of Chairman and shall have equal voting rights. The duties of the Chairman shall include:

(1) Making arrangements for the group to meet initially, as soon as possible, but no later than a month prior to the estimated date of delivery (EDD) of the natural mother. Otherwise, if child is already born, the ASC shall meet as soon as possible.

(2) Designating assignments or tasks for the members, who shall meet at least weekly until adoptive parents are selected for the child.

(d) **Recording of Committee Decisions:** The Chairman shall designate a secretary to record the step-by-step decisions made by the committee, including the names of applicants screened and reasons for their acceptance or rejection in the deliberations. The decision of the Committee regarding the Adoptive Parents chosen shall be preliminary, pending concurrence by the Social Services Administrator, who shall review the minutes and home studies of the Applicants, and provide the Committee with written feedback within five (5) working days thereafter.

(e) **Considerations in the Screening Process:**

(1) The Committee shall first make reasonable efforts to respect the natural parent(s) wishes regarding the religion, race and/or age of the prospective adoptive parent(s).

(2) The Committee shall next make reasonable efforts to match each child with an applicant who has requested a child with similar characteristics as to age and sex.

(3) If more than one applicant meets the above criteria, the committee shall give preference to childless applicant(s). Among childless applicants, those who applied first shall be preferred.

(f) Criteria For Selection of Adoptive Parent(s):

(1) The primary consideration in selection Adoptive Parent(s) should be the special needs and "best interests" of the child.

(2) The capabilities of the potential parents to meet these needs is the next factor in matching child with Adoptive Parents.

(3) If at all possible, the child will be matched with characteristics of the potential Adoptive Parents (e.g., ethnicity, physical characteristics, etc.) to increase the chances of the child "fitting in" with the family.

(4) Handicapped or disabled children, or those with special needs, may have other specific criteria made applicable - to be determined by the Adoption Selection Committee, as needed.

(5) For all Native American (Indian) children, efforts must be made to place these children with American Indian families, in accordance with the Indian Child Welfare Act of 1978 (P.L. 95-608).

(6) The Adoption Selection Committee shall compile a list of Specific Criteria to be used for selection on a case by case basis.

(g) Procedures in Making Selection:

(1) The Committee, when using the above priorities and criteria for selection, shall narrow down the applicants to three (3) names.

(2) Chairman shall assign an applicant to each committee member to interview individually and to conduct a pre-adoption home study. All applicants must be interviewed.

(3) Upon completion of home studies, the committee will review each home study and request another interview of all three applicants, if necessary, in order to make the final selection.

(4) Selection of the family at this point, however, must be recognized as preliminary, dependent on adjustment of child and family, and prior concurrence by the Social Services Administrator on the decision of the Committee.

(h) Procedures involving the Adoptive Child:

(1) Prior to birth, after the natural parent(s) has signed initial "Relinquishment of Parental Rights" papers, the

caseworker shall make arrangement with the hospital involved to take custody of child immediately upon discharge from the hospital. The following guidelines should be adhered to:

(A) Copy of Relinquishment papers shall be given to hospital officials, particularly Obstetrics department.

(B) OB Nurse shall be given instructions that the mother shall not see the newborn, if that decision has been made, and that the mother has chosen not to take part in the childbirth-child care classes.

(C) Adoption worker shall request that the agency be informed of discharge date of the mother and child. Adoption worker shall make arrangements with the hospital personnel to have the mother discharged sooner than the child's discharge.

(2) The newborn child shall be taken by the natural parent's caseworker to a previously arranged foster home, if an adoptive home has not yet been selected.

(3) Caseworker shall immediately afterwards, or prior to placement, if possible, secure an Ex Parte Order from the Court, granting the Division of Social Services the temporary legal custody of said child, pending the Termination of Parental Rights and subsequent adoption.

(4) A Power of Attorney should also be prepared, signed by the caseworker and the Administrator of Social Services, and provided to the prospective adoptive parents or foster family so that they can arrange for medical treatment of the child or any of the child's routine legal affairs which require a parent's consent.

(5) For older children, follow guidelines stipulated in number 3 and 4.

§1309. Voluntary Termination of Parent- Child Relationship. (a) A parent, or parents, may voluntarily consent to the relinquishment of a child and termination of their parental rights for the purpose of adoption.

(b) Parent(s) requesting such services should be provided with counseling to ensure that they are fully aware of the legal and emotional effects of termination of their rights as parents, especially irreversibility once Termination of Parental Rights is granted by the Court.

(c) Counseling should also include discussion of alternatives other than termination of parental rights.

(d) Upon mutual agreement between agency and the parent(s) that termination is in the best interest of both parent(s) and child, the following steps shall be taken:

(1) The parent(s) must sign the Consent for Relinquishment form before a notary public.

(2) A temporary order of custody shall be obtained by the agency, pending the filing of the petition and the termination hearing.

(3) The child will be placed in a relative or foster home and, if old enough to understand the proceedings, should be counseled regarding the termination and eventual adoption.

(4) The Termination of Parental Rights (TPR) Petition shall be filed in Superior Court as soon as possible and shall include to the best information or belief of the petitioner:

(A) the name and place of residence of the petitioner;

(B) the name, sex, date and place of birth, and residence of the child.

(C) the basis for the court's jurisdiction;

(D) the relationship of the petitioner to the child, or the fact that no relationship exists;

(E) the names, addresses, and dates of birth of the biological and/or legal parents;

(F) where the child's parent is a minor, the names and addresses of said minor's parents or guardian of the person;

(G) the names and addresses of the person having legal custody or guardianship of the person or acting "in loco parentis" to the child or

the organization or authorized agency having legal custody or providing care for the child;

(H) the grounds on which termination of the parent-child relationship is sought;

(I) the names and addresses of the person and authorized agency or officer thereof to whom or to which legal custody of the child might be transferred.

(5) After the petition is filed, a hearing date should be set.

(6) A TPR social study should be prepared by the caseworker and shall include:

(i) legal status of child

(ii) social history

(iii) proposed plans for child

(iv) all other facts pertinent to the parent-child relationship

(v) recommendation and reasons as to whether or not the parent-child relationship should be terminated.

(vi) where the parent is a minor, if the report does not include a statement of consent with the parents of said minor, the reasons shall be set forth.

(e) Upon the completion of the Termination of Parental Rights (TPR) proceedings, freeing child for adoption, every effort shall be made by the agency to find suitable adoptive home for the child as soon as possible.

§1310. Preparation For Placement. (a) Placement of a child in a adoptive home shall be made only after the child and the adoptive parents are prepared for it.

(b) The social worker shall prepare the following persons for placement;

(1) **The Child:** Except for infants, preparation should be consistent with the child's age, emotional maturity and understanding. Preparation shall include:

(A) Worker shall help child understand why he is being place, why his family and/or foster

family cannot take care of him, when she/he is going, what adoption is like and what adoption means.

(B) Pre-placement visits between child and adoptive family will be arranged by the Agency, the number of contacts dependent on the child's readiness to make the transfer.

(C) Joint efforts of worker and foster parents in oral discussion with the child regarding the child's move to the new home.

(2) **The Foster Parents** (who are given interim care to the child):

(A) The Social Worker shall give the foster parents at least two-weeks notice on the plans for child's removal and notify the foster parents of the exact date of removal as soon as this is established.

(B) Worker shall counsel family regarding removal of the child, their feelings, fears, questions, "letting go", etc.

(3) **The Adoptive Parents:**

(A) The Social Worker shall give adoptive parents any appropriate information obtained in the study of the child and natural parent(s) (except parent(s)' identity) including all aspects of the child's physical, medical, emotional, intellectual, and behavioral development.

(B) Review with the adoptive parents the child's needs and adjustments the child will be experiencing.

(C) Review, interpret and discuss with the adoptive parents all information of the child, their interactions and reactions to the child.

(D) Worker must be available to family and child to answer questions and facilitate understanding between child and family.

(c) **Adoption of Child by Foster Parents:**

(1) Adoption of a child in foster care by the foster parents will be considered by the Agency under the following conditions:

(A) The Adoption Selection Committee determines that this is in the best interests of the child.

(B) Child has lived in the foster home for at least a year and has developed ties with the family; or

(C) The child is "hard-to-place" because of age, racial background, physical or mental handicap, questionable health or social background etc., and foster parents are willing to adopt the child, having prior knowledge of these factors.

(2) The foster home shall then be re-evaluated in terms of adoption and include:

(A) Foster parents' feelings about adopting a child whose whereabouts are known to the natural parents.

(B) Their capacity to give security to the child under the above circumstances.

(C) A formal application for adoption to be submitted to the agency as soon as possible.

§1311. Post-Placement Services or Removal. (a) After the child is placed in an adoptive home, there shall be a supervisory period of up to one (1) year prior to the consummation of the adoption, during which time the Department shall give supportive assistance to the adoptive parents in adjusting to the child and integrating the child into the family. It will consist of scheduled visits, at least quarterly, in which the worker will monitor the child's and family's adjustment to each other.

(b) The Department may remove the child from the adoptive home at any time prior to the completion of the adoption whenever such action is necessary to protect the well-being of the child. The worker shall discuss the plan to remove the child and basis for such action with the adoptive parents prior to actual removal. Any substantiated child abuse investigation involving said Adoptive Parent(s) shall be grounds for removal of the child and cancellation of proposed adoption. The child shall then revert to foster care status, pending selection of alternative Adoptive Parents, if possible.

(c) Legal Proceedings Prior to Adoption:

(1) Upon general satisfaction with the progress of adoptive placement at the completion of the one-year residency requirement, the Adoption Unit shall.

(A) In cases where the Department of Public Health and Social Services has legal custody of minor(s) to be adopted, forward a Consent to Adoption to the Director of Public Health and Social Services for his signature.

(B) Release the Consent to Adoption to the Adoption Parent and direct them to proceed with the filing of the Adoption petition.

(2) Upon receipt of a court order to conduct the routine Adoption investigation, the Department shall prepare and submit the final Adoption Home Study to the Superior Court of Guam, with recommendation for or against the Adoption.

§1312. Court-Referred Adoption Studies. (a) **Provision of Services:** The Department shall accept orders from the court to conduct an adoption home study for a child who is already in an adoptive home but who was not placed by the Department, i.e. Independent Adoption. This includes two (2) types of cases:

(1) Step-parent or relative adoptions, wherein the child is presently residing with the petitioner, or

(2) Non-relative adoptions, wherein the child may or may not have been residing with the petitioners.

(b) **Deadline for Home Studies:** The Department will request the court to have a 45-day period to submit completed home studies, unless specified in the court order. Extensions may be requested by the department if necessary.

(c) **Focus of Services:** The focus of service is an evaluative study of the adoptive child, his parents, and adoptive petitioners to assure that:

(1) the rights of the natural or "birth" parents have been protected.

(2) The best interests of the child are secured.

(3) The petitioners are able to provide suitable care and supervision for the healthy growth and development of the child.

(d) **Adoption Home Study:** The petitioners must provide the worker with the following documents, where applicable:

(1) Copy of Birth Certificates, Marriage Certificates, Divorce Decrees.

(2) Employment Verification.

(3) Financial Statement

(A) Monthly net and gross income(s).

(B) Other income, assets including home and cars.

(C) Savings which banks and amounts.

(D) Expenses, debts.

(E) Insurance - Life, medical, which companies.

(4) Physical examination of petitioners and child(ren) to be adopted.

(5) References from two non-relatives:

- name

- length of relationship and type

- impressions or attitudes toward petitioners in performing role as parents.

(6) Police clearance from place of current or previous residence.

(e) **Home Study Format:**

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Discuss results of physical exam, date it was performed, medical history of child and petitioners. (All family members must undergo a physical examination.)

- 13) Religion:
 - A) Type of religion or affiliation, if any.
 - B) Discuss role of religion in their lives and in child rearing.
 - C) Willingness to respect child's religion and/or natural parent(s) preference, if any.
- 14) References (2):
 - A) Name of reference.
 - B) Describe length and nature of relationship.
 - C) Their impressions or attitudes toward petitioner in performing role as parents.
- 15) Evaluation or Impressions:
 - A) Discuss worker's overall assessment of petitioner(s) or applicant(s).
 - B) Recommendation of Adoption.

TERMINATION OF ADOPTION SERVICES:

Services to court-referred adoptions are terminated when the court takes action on the petition.

1. When the adoption is granted and Adoption decree is issued, the agency case record shall be closed effective date of receipt of decree.
2. When the adoption is denied and the child is referred to the Department for further planning and care, services shall be continued for the child.
3. The department will maintain a file on Adoption cases for further reference and will be available to the Adopted Child, upon his request, when he reaches majority age. However, if the natural mother wishes to remain anonymous, her name shall not be disclosed by the Agency without expressed written consent by the court.