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Title 22@ Social Security

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Division 2@ Department of Social Services-Department of Health Services

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Part 2@ Health and Welfare Agency-Department of Health Services Regulations

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Subdivision 4@ Institutions and Boarding Homes for Persons Aged 16 and Above

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Chapter 3@ Adoptions Program Regulations [Renumbered]

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Subchapter 4@ Procedures for Independent Adoptions

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Article 3@ Prerequisites to Consent

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Section 35095@ General Prerequisites to Consent

## 35095 General Prerequisites to Consent

The agency shall interview the birth parent as required by Family Code Section 8808. (1) (Reserved)

### (1)

(Reserved)

### (b)

Prior to accepting a consent to adoption or a waiver of right to revoke consent, the agency shall: (1) Obtain information from the birth parent regarding the child's background, the birth parents' reasons for choosing adoption for the child, and the birth parents' attitude toward the adoption. (A) Request the birth parents to provide medical and family background information on the AD 67 and the AD 67A. (B) Take the consent to adoption in accordance with Section 35375 if the child who is the subject of the consent to adoption comes within the provisions of the ICWA. (C) Document in the adoption case record and court report the name of any report, document, or information described in Section 35000(m)(2) that the agency was unable to obtain and the reasons that the information is not included. 1. The agency shall identify on the AD 512A the name of any report, document, or information described in Section 35000(m)(2) that was not obtained and the reason(s) that the information is not included. (2) Obtain written authorization from the birth parent for the release of medical information

(3) Obtain written authorization from the birth parent for the petitioners to obtain medical care and/or treatment for the child (4) Verify the marriages and dissolutions of marriage of the birth mother as required by section 35023(b)(5).

(5) Interview the petitioners unless: (A) The birth parent has requested that he or she be interviewed within 10 working days as provided in Family Code Section 8814.5; and (B) The agency's schedule precludes interviewing the petitioners prior to the interview with the birth parent.1. (Reserved) (6) Determine that the birth parent voluntarily chose to place the child with the petitioners for the purpose of adoption pursuant to Family Code Section 8801. (A) The agency shall document in the court report whether the birth parent voluntarily selected the petitioners and placed the child pursuant to Family Code section 8801 which is located at Section 35094.3(a)(7)(A). (B) If the agency determines that the birth parent has not demonstrated substantially correct knowledge of all elements of personal knowledge regarding the petitioners, a consent to the adoption cannot be taken since an independent adoptive placement as defined in law has not occurred. (C) The agency representative shall advise the birth parent when the placement does not satisfy the statutory definition of an "adoptive placement." (D) The agency shall immediately report to the court if the adoptive placement is not made in accordance with Family Code Sections 8609, 8801 or 8801.3. 1. (Reserved) 2. (Reserved) 3. (Reserved) (7) Determine whether the child and the adoptive family can benefit from adoption. (8) Provide the parent with an explanation of information contained within the Statement of Understanding form prescribed by the Department. (9) Obtain the birth parent's signature on the Statement of Understanding form after the parent has:(A) Affirmed his or her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form. (10) Sign the Statement of

Understanding form certifying that the parent's signature has been properly witnessed. (11) The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is section 35095.1 and the Statement of Understanding for the parent whose child is subject to the ICWA is Section 35095.2.

**(1)**

Obtain information from the birth parent regarding the child's background, the birth parents' reasons for choosing adoption for the child, and the birth parents' attitude toward the adoption. (A) Request the birth parents to provide medical and family background information on the AD 67 and the AD 67A. (B) Take the consent to adoption in accordance with Section 35375 if the child who is the subject of the consent to adoption comes within the provisions of the ICWA. (C) Document in the adoption case record and court report the name of any report, document, or information described in Section 35000(m)(2) that the agency was unable to obtain and the reasons that the information is not included.1. The agency shall identify on the AD 512A the name of any report, document, or information described in Section 35000(m)(2) that was not obtained and the reason(s) that the information is not included.

**(A)**

Request the birth parents to provide medical and family background information on the AD 67 and the AD 67A.

**(B)**

Take the consent to adoption in accordance with Section 35375 if the child who is the subject of the consent to adoption comes within the provisions of the ICWA.

**(C)**

Document in the adoption case record and court report the name of any report, document, or

information described in Section 35000(m)(2) that the agency was unable to obtain and the reasons that the information is not included.<sup>1</sup> The agency shall identify on the AD 512A the name of any report, document, or information described in Section 35000(m)(2) that was not obtained and the reason(s) that the information is not included.

**1.**

The agency shall identify on the AD 512A the name of any report, document, or information described in Section 35000(m)(2) that was not obtained and the reason(s) that the information is not included.

**(2)**

Obtain written authorization from the birth parent for the release of medical information

**(3)**

Obtain written authorization from the birth parent for the petitioners to obtain medical care and/or treatment for the child

**(4)**

Verify the marriages and dissolutions of marriage of the birth mother as required by section 35023(b)(5).

**(5)**

Interview the petitioners unless: (A) The birth parent has requested that he or she be interviewed within 10 working days as provided in Family Code Section 8814.5; and (B) The agency's schedule precludes interviewing the petitioners prior to the interview with the birth parent.<sup>1</sup> (Reserved)

**(A)**

The birth parent has requested that he or she be interviewed within 10 working days as provided in Family Code Section 8814.5; and

**(B)**

The agency's schedule precludes interviewing the petitioners prior to the interview with the birth parent.1. (Reserved)

**1.**

(Reserved)

**(6)**

Determine that the birth parent voluntarily chose to place the child with the petitioners for the purpose of adoption pursuant to Family Code Section 8801. (A) The agency shall document in the court report whether the birth parent voluntarily selected the petitioners and placed the child pursuant to Family Code section 8801 which is located at Section 35094.3(a)(7)(A). (B) If the agency determines that the birth parent has not demonstrated substantially correct knowledge of all elements of personal knowledge regarding the petitioners, a consent to the adoption cannot be taken since an independent adoptive placement as defined in law has not occurred. (C) The agency representative shall advise the birth parent when the placement does not satisfy the statutory definition of an "adoptive placement." (D) The agency shall immediately report to the court if the adoptive placement is not made in accordance with Family Code Sections 8609, 8801 or 8801.3. 1. (Reserved) 2. (Reserved) 3. (Reserved)

**(A)**

The agency shall document in the court report whether the birth parent voluntarily selected the petitioners and placed the child pursuant to Family Code section 8801 which is located at Section 35094.3(a)(7)(A).

**(B)**

If the agency determines that the birth parent has not demonstrated substantially correct knowledge of all elements of personal knowledge regarding the petitioners, a consent to the adoption cannot be taken since an independent adoptive placement as defined in law has not occurred.

**(C)**

The agency representative shall advise the birth parent when the placement does not satisfy the statutory definition of an "adoptive placement."

**(D)**

The agency shall immediately report to the court if the adoptive placement is not made in accordance with Family Code Sections 8609, 8801 or 8801.3. 1. (Reserved) 2.

(Reserved) 3. (Reserved)

**1.**

(Reserved)

**2.**

(Reserved)

**3.**

(Reserved)

**(7)**

Determine whether the child and the adoptive family can benefit from adoption.

**(8)**

Provide the parent with an explanation of information contained within the Statement of Understanding form prescribed by the Department.

**(9)**

Obtain the birth parent's signature on the Statement of Understanding form after the parent has:(A) Affirmed his or her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.

**(A)**

Affirmed his or her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.

**(10)**

Sign the Statement of Understanding form certifying that the parent's signature has been properly witnessed.

**(11)**

The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is section 35095.1 and the Statement of Understanding for the parent whose child is subject to the ICWA is Section 35095.2.

**(c)**

The agency is not required to repeat any of the duties mandated by Section 35095(b)(1), (2), (3), (8), (9), (10), or (11) if the duties have been performed by an adoption service provider and the agency has received documentation of the outcome of the adoption service provider's work.