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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 8@ Adoption of Children with Indian Heritage

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Article 4@ Information to Parents of a Child with Indian Heritage Regarding Provisions of the ICWA

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Section 35369@ Provisions of the ICWA

## 35369 Provisions of the ICWA

(a) The agency shall inform the parents of a child subject to the ICWA of the act's provisions which include: (1) The requirement for an order of placement preference. (C) If the parent requests modification of the placement order in an agency adoption, the request shall be brought to the attention of the court for a decision on whether the placement order shall be modified. (D) In an independent adoption, the court shall be advised that the parent has been made aware of the order of placement preference and has made the decision to consent to the adoption by the petitioners. (2) The requirement that the relinquishment or consent must be taken before a judge of the Superior Court. (3) The requirement that the parent may withdraw consent or revoke or rescind relinquishment at any time prior to the entry of the final decree of adoption. (4) The requirement that, in the event the parent who gave physical custody of the child to the agency or petitioners and has not otherwise been deprived of legal custody requests to revoke or rescind the relinquishment or withdraw the consent, or refuses to give consent, the following procedures shall be followed: (A) In an independent adoption: (1) If the consent has not been signed and the parent wishes return of the child, the parent rather than the agency will request the petitioners to return the child. If the petitioners refuse, the agency shall immediately file a report with the court and recommend the child's return. (2) If the consent has been signed,

the agency shall immediately file a report with the court advising the court of the parent's request and recommending that the child be returned to the parent. (B) In an agency adoption: 1. If the parent's request precedes adoptive placement the agency shall rescind the relinquishment and return the child to the parent. 2. If the parent's request follows an adoptive placement, the agency shall immediately notify the adoptive parents and return the child to the parent within an agreed upon time period, which would ordinarily not exceed three working days. (i) In no case shall the return of the child require more than seven calendar days following the parent's request. (C) Any other parent whose consent has been taken or whose relinquishment has been filed shall immediately be notified of the request to revoke or rescind the relinquishment or withdraw the consent and shall be notified of any court proceedings resulting from the request. (5) The requirement that, in the event that the parent who did not give physical custody of the child to the agency or petitioners, or the parent who has been deprived of legal custody, requests revocation or rescission of the relinquishment or withdrawal of the consent, the following procedures shall be followed: (A) In an independent adoption, the agency shall ensure that the petitioners are advised that court proceedings will be necessary to determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed. (B) In an agency adoption, the agency shall initiate court proceedings which will determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed. 1. The agency shall ensure that any other parent whose consent has been taken or whose relinquishment has been filed is notified of the request to revoke or rescind the relinquishment or withdraw the consent and notified of any court proceedings resulting from the request. (6) The requirement that if the agency or petitioners initiate legal proceedings to

involuntarily terminate the parent's rights to the Indian child, the tribe shall be notified and may intervene in the proceedings. (7) The requirement that the parent will be notified if the adoption petition is withdrawn, dismissed, or denied or the adoption is set aside. (B) The agency shall inform the parent that he or she must keep his or her name and address current with the agency so that notice can be provided. (C) The agency reporting on the petition that is withdrawn, dismissed, or denied, or on the set aside shall provide written notice to the parent. (8) The requirement that upon petition of either parent, the Indian custodian or the Indian child's tribe, all court proceedings with regard to the child shall be transferred to the jurisdiction of the tribal court, providing there is no good cause to the contrary, and neither parent objects to the petition and the tribal court does not decline the transfer. (9) The requirements for release of information concerning the adoption and the adopted child's Indian heritage as follows: (A) The adopted child, when he or she reaches age 18, may request and receive information from the court as provided for in 25 USC 1917. (B) That the court which granted the adoption is required by the Act to provide information to the Secretary of the Interior as specified in 25 USC 1951 and the parent who wishes his or her identity to remain confidential will need to file an affidavit with the court requesting confidentiality. 2. The agency shall request the parent to provide a copy of the affidavit for filing in the adoption case record. (C) That although the Secretary of the Interior is required by the Act to insure confidentiality, some Indian tribes, if they know of the adoption, may not maintain confidentiality. (D) That upon request the department will make available to authorized personnel from the Bureau of Indian Affairs and the adopted child who has reached age 18 information as specified in Family Code Section 8619.

The requirement for an order of placement preference. (C) If the parent requests modification of the placement order in an agency adoption, the request shall be brought to the attention of the court for a decision on whether the placement order shall be modified. (D) In an independent adoption, the court shall be advised that the parent has been made aware of the order of placement preference and has made the decision to consent to the adoption by the petitioners.

**(C)**

If the parent requests modification of the placement order in an agency adoption, the request shall be brought to the attention of the court for a decision on whether the placement order shall be modified.

**(D)**

In an independent adoption, the court shall be advised that the parent has been made aware of the order of placement preference and has made the decision to consent to the adoption by the petitioners.

**(2)**

The requirement that the relinquishment or consent must be taken before a judge of the Superior Court.

**(3)**

The requirement that the parent may withdraw consent or revoke or rescind relinquishment at any time prior to the entry of the final decree of adoption.

**(4)**

The requirement that, in the event the parent who gave physical custody of the child to the agency or petitioners and has not otherwise been deprived of legal custody requests to revoke or rescind the relinquishment or withdraw the consent, or refuses to give consent, the following procedures shall be followed: (A) In an independent adoption: (1) If the consent has not been signed and the parent wishes return of the

child, the parent rather than the agency will request the petitioners to return the child. If the petitioners refuse, the agency shall immediately file a report with the court and recommend the child's return.2. If the consent has been signed, the agency shall immediately file a report with the court advising the court of the parent's request and recommending that the child be returned to the parent. (B) In an agency adoption: 1. If the parent's request precedes adoptive placement the agency shall rescind the relinquishment and return the child to the parent. 2. If the parent's request follows an adoptive placement, the agency shall immediately notify the adoptive parents and return the child to the parent within an agreed upon time period, which would ordinarily not exceed three working days. (i) In no case shall the return of the child require more than seven calendar days following the parent's request. (C) Any other parent whose consent has been taken or whose relinquishment has been filed shall immediately be notified of the request to revoke or rescind the relinquishment or withdraw the consent and shall be notified of any court proceedings resulting from the request.

**(A)**

In an independent adoption: (1) If the consent has not been signed and the parent wishes return of the child, the parent rather than the agency will request the petitioners to return the child. If the petitioners refuse, the agency shall immediately file a report with the court and recommend the child's return.2. If the consent has been signed, the agency shall immediately file a report with the court advising the court of the parent's request and recommending that the child be returned to the parent.

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been signed, the agency shall immediately file a report with the court advising the court of the parent's request and recommending that the child be returned to the parent.

**2.**

If the consent has been signed, the agency shall immediately file a report with the court advising the court of the parent's request and recommending that the child be returned to the parent.

**(B)**

In an agency adoption: 1. If the parent's request precedes adoptive placement the agency shall rescind the relinquishment and return the child to the parent. 2. If the parent's request follows an adoptive placement, the agency shall immediately notify the adoptive parents and return the child to the parent within an agreed upon time period, which would ordinarily not exceed three working days. (i) In no case shall the return of the child require more than seven calendar days following the parent's request.

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If the parent's request precedes adoptive placement the agency shall rescind the relinquishment and return the child to the parent.

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If the parent's request follows an adoptive placement, the agency shall immediately notify the adoptive parents and return the child to the parent within an agreed upon time period, which would ordinarily not exceed three working days. (i) In no case shall the return of the child require more than seven calendar days following the parent's request.

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**(C)**

Any other parent whose consent has been taken or whose relinquishment has been filed shall immediately be notified of the request to revoke or rescind the relinquishment or withdraw the consent and shall be notified of any court proceedings resulting from the request.

**(5)**

The requirement that, in the event that the parent who did not give physical custody of the child to the agency or petitioners, or the parent who has been deprived of legal custody, requests revocation or rescission of the relinquishment or withdrawal of the consent, the following procedures shall be followed: (A) In an independent adoption, the agency shall ensure that the petitioners are advised that court proceedings will be necessary to determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed. (B) In an agency adoption, the agency shall initiate court proceedings which will determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed. 1. The agency shall ensure that any other parent whose consent has been taken or whose relinquishment has been filed is notified of the request to revoke or rescind the relinquishment or withdraw the consent and notified of any court proceedings resulting from the request.

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In an independent adoption, the agency shall ensure that the petitioners are advised that court proceedings will be necessary to determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed.

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The requirement that if the agency or petitioners initiate legal proceedings to involuntarily terminate the parent's rights to the Indian child, the tribe shall be notified and may intervene in the proceedings.

**(7)**

The requirement that the parent will be notified if the adoption petition is withdrawn, dismissed, or denied or the adoption is set aside. (B) The agency shall inform the parent that he or she must keep his or her name and address current with the agency so that notice can be provided. (C) The agency reporting on the petition that is withdrawn, dismissed, or denied, or on the set aside shall provide written notice to the parent.

**(B)**

The agency shall inform the parent that he or she must keep his or her name and address current with the agency so that notice can be provided.

**(C)**

The agency reporting on the petition that is withdrawn, dismissed, or denied, or on the set aside shall provide written notice to the parent.

**(8)**

The requirement that upon petition of either parent, the Indian custodian or the Indian child's tribe, all court proceedings with regard to the child shall be transferred to the jurisdiction of the tribal court, providing there is no good cause to the contrary, and neither parent objects to the petition and the tribal court does not decline the transfer.

**(9)**



The requirements for release of information concerning the adoption and the adopted child's Indian heritage as follows:(A) The adopted child, when he or she reaches age 18, may request and receive information from the court as provided for in 25 USC 1917. (B) That the court which granted the adoption is required by the Act to provide information to the Secretary of the Interior as specified in 25 USC 1951 and the parent who wishes his or her identity to remain confidential will need to file an affidavit with the court requesting confidentiality.2. The agency shall request the parent to provide a copy of the affidavit for filing in the adoption case record. (C) That although the Secretary of the Interior is required by the Act to insure confidentiality, some Indian tribes, if they know of the adoption, may not maintain confidentiality. (D) That upon request the department will make available to authorized personnel from the Bureau of Indian Affairs and the adopted child who has reached age 18 information as specified in Family Code Section 8619.

**(A)**

The adopted child, when he or she reaches age 18, may request and receive information from the court as provided for in 25 USC 1917.

**(B)**

That the court which granted the adoption is required by the Act to provide information to the Secretary of the Interior as specified in 25 USC 1951 and the parent who wishes his or her identity to remain confidential will need to file an affidavit with the court requesting confidentiality.2. The agency shall request the parent to provide a copy of the affidavit for filing in the adoption case record.

**2.**

The agency shall request the parent to provide a copy of the affidavit for filing in the adoption case record.

**(C)**

That although the Secretary of the Interior is required by the Act to insure confidentiality, some Indian tribes, if they know of the adoption, may not maintain confidentiality.

**(D)**

That upon request the department will make available to authorized personnel from the Bureau of Indian Affairs and the adopted child who has reached age 18 information as specified in Family Code Section 8619.