



OFFICE OF CHILDREN AND FAMILY SERVICES

New York State
Office of
Children & Family
Services

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 00 OCFS ADM-2

TO: Commissioners of
Social Services

DIVISION: Strategic Planning
and Policy
Development

George E. Pataki

DATE: February 2, 2000

Governor SUBJECT: Voluntary Foster Care Placement Agreement

John A. Johnson
Commissioner

SUGGESTED

DISTRIBUTION: Directors of Services
Legal Staff

CONTACT

PERSON: BRO-Linda Brown (716) 847-3145 USER ID: 89D421
RRO-Linda Kurtz (716) 238-8201 USER ID: OFH010
SRO-Jack Klump (315) 423-1200 USER ID: 89W005
ARO-William McLaughlin (518) 432-2751
USER ID: OFN010
YRO-Patricia Sheehy (914) 377-2080
USER ID: AM4110
NYCRO-Gail Hallerdin (212) 383-1788
USER ID: AA0120

Capital View Office Park

52 Washington Street
Rensselaer, NY 12144-2796

ATTACHMENTS: Model Voluntary Placement Agreement Form
(The text of the Form is available on-line,
but the formatted version with the correct
print type size is only available off-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
91 ADM-12			Chapter 7 of the Laws of 1999 SSL 384-a		

OCFS-4615EL (Rev. 11/98)



I. PURPOSE

The purpose of this directive is to inform you of an amendment that must be made to voluntary placement agreements between parents or guardians and social services districts to whom the parents or guardians voluntarily transfer the care and custody of their child(ren). Chapter 7 of the Laws of 1999, which implements numerous federal provisions contained in the Adoption and Safe Families Act (ASFA), requires that voluntary placement agreements be amended to provide notice to parents or guardians "that if the child remains in foster care for fifteen of the most recent twenty-two months, the agency may be required by law to terminate parental rights."

II. BACKGROUND

91 ADM-12, "Foster Care: Voluntary Placement Agreement Instrument" outlined the legal requirements that needed to be contained in a voluntary placement agreement instrument between a social services district and parents/guardians. In addition, 91 ADM-12 had a Model Voluntary Placement Agreement Form as an attachment. This directive updates the Model Voluntary Placement Agreement Instrument to add language, as required by Chapter 7 of the Laws of 1999, that informs parents of the 15/22 month termination provision.

Chapter 7 also mandates that for Court petitions, required by Section 358-a of the Social Service Law for voluntary placements of a duration of more than 30 days, bold print notice of the 15/22 month termination provision be included. Such bold print notice has been inserted by the Office of Court Administration into its 358-a petitions that we previously posted in template form on the CONNECTIONS public folder entitled ASFA - Family Court Forms.

III. PROGRAM IMPLICATIONS

The Voluntary Placement Agreement Instrument should have certain categories of information including the terms of the placement, the responsibility of the parents, the responsibility of the Commissioner, supportive services available, etc. The Model Voluntary Placement Agreement has been amended in the "Responsibilities of Parents" section to include the 15/22 month language.

Additionally, the Model Voluntary Placement Agreement has been amended to use the term "permanency hearings" to replace "foster care review hearings" and make clear that such hearings are held within 12 months.

The "Right to a Fair Hearing" section has been amended to better reflect a parent or guardian's legal rights, as well as to provide the correct name and address of the entity to which a person would direct a request for a hearing.

The Agreement was amended in several places to delete the word "legal" where previously the term "legal guardian" had been used. The term "guardian" better reflects the State statutory provisions pertaining to who may legally voluntarily place a child in foster care. It is important to note, however, that federal reimbursement for the foster care placement would only be available if the "guardian" had been appointed by the Court as a legal guardian. Therefore, we have left the footnote on the first page that asks for documentation if the person obtained legal guardianship.

The revised, attached Model Voluntary Placement Agreement has additionally been made into a template and placed in the aforementioned ASFA - Family Court Forms public folder, within the Foster Care Placement Review Forms section for your possible use.

IV. REQUIRED ACTION

Each social services district must use a voluntary placement agreement that complies with section 384-a of the Social Services Law, as outlined in 91 ADM-12 and the new language required by Chapter 7 of the Laws of 1999 pertaining to a child remaining in care for fifteen of the most recent 22 months. The newly required language must be printed, as was required for much of the other text, in lay terms in a large typeface of at least 18 point type. The revised model form is attached for your guidance, and is available in template form, which can be locally tailored relatively easily, in the previously referenced public folder on CONNECTIONS.

V. SYSTEMS IMPLICATIONS


None.

VI. ADDITIONAL INFORMATION

None.

VII. EFFECTIVE DATE

This directive is effective February 1, 2000 retroactive to February 11, 1999 when Chapter 7 of the Laws of 1999 was enacted.


William F. Baccaglioni
Director
Strategic Planning and Policy Development

MODEL VOLUNTARY PLACEMENT AGREEMENT FORM

This model form is provided as guidance to local social services districts in developing their own forms. It contains appropriate language and format following requirements of the Social Services Law and is intended to replace the guidelines form attached to 91 ADM-12.

NOTICE

0 BY SIGNING THIS AGREEMENT, YOU WILL VOLUNTARILY TRANSFER THE CARE AND CUSTODY OF YOUR CHILD TO THE COMMISSIONER OF SOCIAL SERVICES. YOU DO NOT HAVE TO SIGN THE AGREEMENT AND YOU WILL NOT BE SUBJECT TO ANY LEGAL PENALTIES IF YOU DO NOT SIGN IT.

0 YOU HAVE THE RIGHT TO TALK TO A LAWYER OF YOUR OWN CHOOSING BEFORE SIGNING THIS AGREEMENT. IF YOU CANNOT AFFORD A LAWYER, YOU HAVE THE RIGHT TO OBTAIN FROM THE COMMISSIONER A LIST OF LAWYERS OR ORGANIZATIONS WHICH MAY PROVIDE FREE LEGAL SERVICES.

Name of Person Signing Agreement

Address

Mother

Number and Street

Apt. Zip

Father*

Number and Street

Apt. Zip

Guardian**

Number and Street

Apt Zip

Child(ren)

Name _____

(date of birth)

Name _____

(date of birth)

Name _____

(date of birth)

* If child is born out-of-wedlock, attach acknowledgment of paternity form; or indicate the date and court where paternity was established:
Date _____ Court _____

** If signing as legal guardian, specify the date and court where guardianship was obtained: Date _____ Court _____

TERMS OF PLACEMENT

I grant permission to the Commissioner of Social Services to place my child in a foster care setting that is determined to be suitable for my child's care. I understand that I am expected to work cooperatively towards planning for the future of my child, and that the agency will offer whatever help is available to enable me to decide what is best for my child. I understand that it is both my right and responsibility to plan with the agency for my child's return home, or to actively participate in making alternate plans so that the child can have the benefit of another home.

INDEFINITE PLACEMENT

I AM PLACING MY CHILD WITH THE COMMISSIONER FOR AN INDEFINITE PERIOD OF TIME. WHEN I WANT MY CHILD DISCHARGED FROM FOSTER CARE, I WILL MAKE A REQUEST IN WRITING TO THE COMMISSIONER WITH CUSTODY OF MY CHILD.

THE COMMISSIONER WILL RETURN MY CHILD TO ME WITHIN TWENTY (20) DAYS AFTER RECEIVING MY REQUEST UNLESS A COURT ORDER EXISTS THAT WOULD NOT ALLOW THE RETURN OF MY CHILD, OR A COURT ORDER IS OBTAINED TO PREVENT THE RETURN.

A COURT ORDER MAY BE OBTAINED BY THE COMMISSIONER IN ANY OF THE FOLLOWING COURT PROCEEDINGS: (1) A CUSTODY PROCEEDING; (2) A CHILD PROTECTIVE PROCEEDING; (3) A PROCEEDING TO TERMINATE PARENTAL RIGHTS; OR (4) A PERMANENCY HEARING THAT DIRECTED CONTINUED CARE.

LIMITED PLACEMENT

I WANT MY CHILD TO BE PLACED WITH
THE COMMISSIONER UNTIL (DATE) OR
UNTIL THE FOLLOWING EVENT TAKES PLACE:

MY CHILD WILL BE RETURNED BY THE
ABOVE DATE OR EVENT SPECIFIED UNLESS A
COURT ORDER IS OBTAINED TO PREVENT THE
RETURN BEFORE THE ABOVE DATE OR EVENT,
OR WITHIN 10 DAYS AFTER THE DATE OR
EVENT.

IF I AM UNABLE TO RECEIVE MY CHILD,
OR I AM UNAVAILABLE OR INCAPACITATED, I
CONSENT TO EXTEND THE TIME MY CHILD
REMAINS IN CARE. I WILL NOTIFY THE
COMMISSIONER WHEN I AM ABLE TO ACCEPT MY
CHILD. MY CHILD MUST THEN BE RETURNED
TO ME WITHIN TEN (10) DAYS AFTER THE
RECEIPT OF MY REQUEST UNLESS A COURT
ORDER AGAINST THE RETURN IS OBTAINED
WITHIN TEN (10) DAYS OF MY REQUEST.

I MAY REQUEST IN WRITING TO THE
COMMISSIONER THE RETURN OF MY CHILD
BEFORE THE ABOVE DATE OR EVENT. THE
COMMISSIONER MUST RETURN MY CHILD OR
NOTIFY ME WITHIN TEN (10) DAYS OF MY
REQUEST IF THE REQUEST IS DENIED. IF
THE COMMISSIONER DOES NOT ACT UPON MY
REQUEST, I HAVE THE RIGHT TO SEEK THE
IMMEDIATE RETURN OF MY CHILD IN EITHER
FAMILY COURT OR STATE SUPREME COURT.

RESPONSIBILITIES OF PARENTS

AS THE PARENT(S)/GUARDIAN OF MY CHILD, I AGREE TO:

- (1) PLAN FOR THE FUTURE OF MY CHILD;
- (2) MEET AND CONSULT WITH AGENCY STAFF IN DEVELOPING AND CARRYING OUT THE BEST PLAN FOR MY CHILD AND ME;
- (3) VISIT WITH MY CHILD;
- (4) KEEP THE FOSTER CARE AGENCY INFORMED OF ANY CHANGES IN MY NAME OR MY ADDRESS; AND
- (5) CONTRIBUTE, IF I AM FINANCIALLY ABLE, TOWARD THE COST OF MY CHILD'S FOSTER CARE.

I UNDERSTAND THAT FAILURE TO MEET THESE RESPONSIBILITIES LISTED ABOVE COULD BE A BASIS FOR COURT PROCEEDINGS TO TERMINATE MY PARENTAL RIGHTS AND FREE MY CHILD FOR ADOPTION. I UNDERSTAND THAT IF MY CHILD REMAINS IN CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED TO FILE A PETITION TO TERMINATE PARENTAL RIGHTS. I UNDERSTAND THAT IF MY RIGHTS ARE TERMINATED, MY CONSENT WOULD NO LONGER BE NEEDED FOR MY CHILD TO BE ADOPTED.

THE AMOUNT OF MONEY I WILL BE ABLE TO CONTRIBUTE EACH WEEK _____ (OR MONTH _____) WHILE MY CHILD REMAINS IN THE CARE AND CUSTODY OF THE COMMISSIONER IS _____. (COMPLETE BY WRITING AN AMOUNT, OR "NONE," OR "UNKNOWN.")

RESPONSIBILITIES OF THE COMMISSIONER

I understand that the Commissioner of Social Services, in accordance with the plan for supportive services, and to the extent to which services are available and my eligibility for services is established, agrees to:

- (1) provide care, supervision, room, board, clothing, medical care, dental care, and education for my child;
- (2) inform me of the name, address and telephone number of the foster care agency, home or facility where my child is placed;
- (3) clearly inform me of what is expected of me before my child will be returned home and to work with me to develop and carry out a service plan for my child and me, including those supportive services needed so that my child can return home;
- (4) provide help, if needed, for any children who remain in my home;
- (5) help me make arrangements to visit my child;
- (6) hear and take appropriate action upon complaints I may have about care and services provided to my child and me.

SUPPORTIVE SERVICES

I HAVE BEEN ADVISED OF MY RIGHT TO HAVE SUPPORTIVE SERVICES PROVIDED, INCLUDING PREVENTIVE AND OTHER SUPPORTIVE SERVICES, WHILE MY CHILD REMAINS IN FOSTER CARE. I UNDERSTAND THAT SUCH SUPPORTIVE SERVICES SHOULD BE PROVIDED SO THAT MY CHILD CAN BE RETURNED TO MY HOME.

I further understand that it is my responsibility to plan for and to cooperate with the provision of such supportive services. Should I fail to cooperate and my child cannot be returned to my home in accordance with the plan for services, a court action to terminate my parental rights might be brought.

I understand that the supportive services will not be discontinued while my child remains in placement unless I agree to this in writing. There are three exceptions to this rule: (1) if the continued provision of supportive services would be contrary to a court order entered in a proceeding of which I was notified; (2) if I do not keep the agency informed of my whereabouts; or (3) if I refuse to communicate with the agency or I refuse to accept the supportive services offered.

VISITING

I HAVE BEEN ADVISED OF MY RIGHT TO VISIT WITH MY CHILD IN FOSTER CARE AND OF THE IMPORTANCE OF VISITING REGULARLY. I HAVE THE RIGHT TO DETERMINE, JOINTLY WITH THE AGENCY, THE TERMS AND FREQUENCY OF VISITATION. I AGREE TO COOPERATE WITH THE AGENCY IN ESTABLISHING APPROPRIATE VISITING PERIODS. I UNDERSTAND THAT AT TIMES IT MAY BE NECESSARY TO CHANGE VISITING SCHEDULES DUE TO CHANGES IN MY CIRCUMSTANCES OR BECAUSE OF CIRCUMSTANCES WHERE MY CHILD IS PLACED.

Any court orders concerning the right of visitation to my child remain in effect and are noted here or attached to this document as required by law.

Noted: _____

Attached _____

NO ONE MAY STOP OR LIMIT MY VISITS WITHOUT APPROVAL FROM A COURT PROCEEDING. I UNDERSTAND THAT I WOULD BE NOTIFIED OF SUCH A PROCEEDING AND MAY APPEAR AT THE PROCEEDING.

HEALTH AND MEDICAL CARE

As the parent(s) guardian of my child:

- (1) I understand that the Commissioner or a designated representative will keep me informed of my child's progress, development and health status (other than routine health care);
- (2) I agree to periodic medical examinations for my child and to the administration of any immunizations, tests, and treatments, including dental treatments, that are considered necessary for the well-being of my child EXCEPT:
 - (a) surgery,
 - (b) testing for HIV infection or AIDS, or
 - (c) entering my child in experimental medical research programs (clinical trials).

I understand that I will be consulted and my written consent sought whenever surgery is considered necessary.

I understand that my written consent must be obtained before my child is tested for HIV infection UNLESS my child has capacity to give consent to such testing or I lose guardianship of my child or the Commissioner takes custody of my child as an abused or neglected child.

I understand that my written consent must be obtained before my child is entered into an experimental medical research program (clinical trial) UNLESS my child reaches age 18 or I lose guardianship of my child.

- (3) In the event that my child requires emergency surgery, I authorize the Commissioner of Social Services or a designated representative to consent to such emergency surgery if I am unavailable or cannot be reached for consultation. Notice of such action will be given to me as soon as possible. I also agree that whenever an emergency arises requiring immediate medical and/or surgical care, and in the treating physician's judgment an emergency exists, and that any delay caused by an attempt to secure consent for treatment would endanger my child's life or health, necessary care may be provided immediately and notice to be will be given as soon as possible; and
- (4) I understand that when my consent to a medical procedure is requested, and if the Commissioner or a designated representative believes that my failure to give such consent would endanger the life, health or safety of my child, a child protective proceeding may be initiated in order to obtain court authorization for the medical procedure.

COURT HEARINGS

- (1) According to the provisions of section 358-a of the Social Services Law, if a social services official believes my child is likely to remain in care more than thirty days, a proceeding will be filed in the Family Court to obtain a court review of this Agreement. According to the provisions of section 392 of the Social Services Law, a permanency hearing will be held before the end of the first twelve (12) months in foster care and at least every twelve (12) months thereafter. I will receive notice of these hearings and have an opportunity to be present. At the hearing the court has the authority to order the Commissioner of Social Services to carry out a specific plan of action to exercise diligent efforts toward the discharge of my child from foster care, either to the child's own family or to an adoptive home. The court also retains continuing jurisdiction for certain purposes, and may review the case at the request of any of the parties involved, including the parent(s) or legal guardian.

- (2) My failure to maintain parental responsibilities may lead to action and termination of parental rights. Under the Social Services Law of the State of New York, my failure to visit and communicate with a child for six successive months without good reasons may be considered abandonment. Under the Social Services Law and the Family Court Act of the State of New York, my failure to substantially and continuously or repeatedly maintain contact with or plan for the future of the child, although physically and financially able to do so, for a period of more than one year following the date the child came into foster care, may be considered permanent neglect if the agency has made diligent efforts to encourage and strengthen my relationship with my child when such efforts are not contrary to the best interests of the child.

RIGHT TO A FAIR HEARING

I UNDERSTAND THAT I HAVE THE RIGHT TO REQUEST A STATE FAIR HEARING IF I DISAGREE WITH DECISIONS CONCERNING SERVICES FOR MYSELF OR MY CHILD SUCH AS:

- 0 SUPPORTIVE SERVICES ARE DENIED, REDUCED, OR DISCONTINUED;**

- O SUPPORTIVE SERVICES ARRANGED ARE NOT APPROPRIATE FOR MY SITUATION**
- OR**
- O I HAVE BEEN DENIED THE RIGHT TO VISIT WITH MY CHILD.**

I MAY REQUEST A FAIR HEARING:

(1) BY WRITING TO THE OFFICE OF ADMINISTRATIVE HEARINGS OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, P.O. Box 1930, ALBANY, NY 12201; OR

2) BY CALLING _____

IF YOU RECEIVE A NOTICE DENYING, DISCONTINUING OR REDUCING A SERVICE, YOU MUST REQUEST YOUR HEARING WITHIN 60 DAYS OF THE DATE OF SUCH NOTICE.

SIGNATURES

I understand that I have the right to consult with an attorney prior to signing this Agreement or at any other time, as outlined in the Notice on the first page of the Agreement.

I understand that none of the above provisions may be changed without my consent or that of an individual acting in my behalf with my consent, and the consent of the Commissioner of Social Services or designated representative. If any such provision is to be changed, it will be indicated in writing in a supplemental instrument which will be acknowledged and signed in the same manner as this Agreement, and will be attached and become part of this original Agreement.

I have read and I understand this Agreement which will be in effect during the time that my child is in foster care placement. I have received a copy of this agreement.

Signature of Parent or Guardian

Signature of Second Parent

Date _____

Signed in the presence of:

Title: _____