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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-12

TO: Commissioners of
 Social Services

DIVISION: Family and
 Children
 Services

DATE: April 8, 1991

SUBJECT: Foster Care: Voluntary Placement Agreement Instrument

SUGGESTED
 DISTRIBUTION:

Directors of Services
 Legal Staff
 Staff Development Coordinators

CONTACT
 PERSON:

Your Regional Office Director

Albany: John O'Connor (518) 432-2751
 Buffalo: Linda Brown (716) 847-3145
 Metropolitan: Fred Cantlo (212) 804-1202
 Rochester: Linda Kurtz (716) 238-8200
 Syracuse: Jack Klump (315) 428-3235

ATTACHMENTS:

Model Voluntary Placement Agreement Instrument (Not available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
85 ADM-53		358-2	358-a		
85 ADM-21		422	384-a		
		426.2	384-b		
		430.9	392		
		441.20	409-e		
			409-f		

I. PURPOSE

The purpose of this directive is to inform you of requirements related 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 256 of the Laws of 1990 amended section 384-a of the Social Services Law to require changes in the form and language of such transfer instruments.

II. BACKGROUND

Procedures involving Family Court jurisdiction and reviews when children are voluntarily placed in foster care by their parents or guardians were described in 85 ADM-53. That directive advised authorized agencies of changes in requirements for court petitions, explained the right of parents to preventive and supportive services if such services were available under the district's consolidated services plan or court-ordered, and the right of parents to fair hearings.

Attached to that directive was a model voluntary placement agreement form with suggested language to comply with the requirements of section 384-a.2 of the Social Services Law. Social Services districts could opt to use the model form or design their own, as long as the necessary statements were incorporated. The Chapter 256 amendments require changes affecting format and language in the voluntary placement agreement form.

III. PROGRAM IMPLICATIONS

The intent of Chapter 256 is clearly to emphasize through the voluntary placement instrument the rights and responsibilities of parents who voluntarily transfer care and custody of their children. In signing the required list of rights and responsibilities to be incorporated within the language of the placement instrument, the social services official and the parent or guardian jointly agree to implement and abide by its provisions. However, the amendments provide that the agreement form must include an assurance that the parent or guardian is under no obligation to transfer the care and custody of a child to a social services official and will not receive any legal penalty for failure to do so.

Amendments to the law to be included in the voluntary placement agreement provide that the parent or guardian transferring custody has the right of legal representation of his or her own choosing. The agency must provide a list of attorneys or legal services organizations, if any, offering free legal services to the parent or guardian in need of such services. In addition, Chapter 256 requires the agreement instrument to state that when no date or event for

return of the child is specified in the agreement, the parent has the right to the return of a child within 20 days of a request for return unless otherwise ordered by the court. The right of a parent or guardian to determine jointly with the agency the terms and frequency of visitation with the child is another addition to the law to be incorporated in the voluntary placement agreement.

Amendments add a warning on the possible termination of parental rights through court proceedings as a result of the failure of a parent or guardian to meet the obligations agreed upon in signing the placement instrument.

Finally, the placement agreement is to include any amount of money which the parent will contribute for the support of the child and the schedule of any such payments, if known.

IV. REQUIRED ACTION

The following actions are required in order to comply with the 1990 amendments to section 384-a of the Social Services Law:

- A. Each social services district must develop a voluntary placement agreement form printed in accordance with the Chapter 256 amendments to SSL section 384-a. (See suggested language in IV.C. of this directive). A model form is attached for your guidance.
- B. Specific items in the voluntary placement agreement form must be printed in lay terms in a large typeface of at least 18 point type. The social services district is responsible for ensuring that these items are incorporated within the agreement instrument itself, and not merely appended to the agreement form as was formerly permitted by section 384-a SSL. Local districts should consult their legal staff for assistance in complying with these requirements of Chapter 256.
- C. Changes in paragraph (c) of section 384-a(2) of the SSL, in addition to the printing specifications, include the following requirements:
 1. a statement to be included in the agreement instrument that the parents understand they have no legal obligation to transfer the care and custody of a child to a social services official and cannot be penalized for failing to do so;
 2. a statement that the parent or guardian has a right to determine jointly with the authorized agency the terms and frequency of visits with the child;

3. a statement that the failure of the parent or guardian to meet the obligations listed in the agreement instrument could be the basis for court action leading to termination of parental rights; and
 4. a statement of the amount of money which the parent will contribute to the support of the child and the schedule of payments, if known.
- D. As required by Chapter 256, all voluntary placement agreement instruments must incorporate the following statements in the larger type and in lay terms determined by the district or as suggested below:
1. the right of the parent or guardian, before signing the voluntary placement agreement, to a legal representative of the parent's or guardian's choosing and to a list provided by the agency of attorneys or legal services organizations, if any, which may offer free legal services when necessary;
 2. the right of the parent or guardian to refuse to sign an agreement transferring the care and custody of the child to an agency, and the assurance that there will be no penalty for refusal to sign an agreement;
 3. when no date or event for return of the child is specified in the agreement, the right to the child's return to the parent or guardian within 20 days of a request for return unless the court orders otherwise;
 4. the right of the parent or guardian to supportive services, including those services listed as available in the Consolidated Services Plan;
 5. the right of the parent or guardian to visit with the child and determine jointly with the agency the terms and frequency of visitation;
 6. the right of parent or guardian to a fair hearing if the agency fails to permit visitation with the child or to provide supportive services included in the Consolidated Services Plan to the child and to the parent or guardian;
 7. the obligation of the parent or guardian to:
 - a. visit with the child placed in care;
 - b. plan for the future of the child;
 - c. meet and consult with the agency to plan for the child;
 - d. contribute to the support of the child to the extent of financial ability to do so;
 - e. inform the agency of any change in name or address;

8. the understanding by the parent or guardian that failure to meet the obligations listed above in (7) could be used as the basis for court action to transfer custody and guardianship of the child to an agency, thereby terminating parental rights;
9. the amount of money to be contributed by the parent for the support of the child and the schedule for payment, if known.

V. SYSTEMS IMPLICATIONS

None.

VI. ADDITIONAL INFORMATION

None.

VII. EFFECTIVE DATE

This directive is effective on May 1, 1991 retroactive to September 1, 1990, the effective date of Chapter 256 of the Laws of 1990.

Joseph Semidei
Deputy Commissioner
Division of Family
and Children Services