

**ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby amend, effective immediately, sections 205.3, 205.17, 205.48, 205.49, 205.52, 205.53, 205.81 and 205.86 of the *Uniform Rules for the Family Court*, relating to the implementation of recent legislative enactments and improvement of procedures for resolution of family matters, to read as follows:

Section 205.3. Individual assignment system; structure.

(c) Exceptions.

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(7) Where a child is under the jurisdiction of the Family Court as a result of a placement in foster care pursuant to Article 10 or 10-A of the Family Court Act or section 358-a of the Social Services Law, a judicial surrender, or a petition for the termination of parental rights, approval of an extra-judicial surrender or adoption of the child, shall be assigned, wherever practicable, to the Family Court judge who last presided over the child's proceeding.

Section 205.17 Permanency hearings for children in foster care, children directly placed with relatives or other suitable persons and children freed for adoption

(a) This section shall govern all permanency hearings conducted pursuant to article 10-A of the Family Court Act.

(b) Scheduling for dates certain; deadlines for submitting permanency reports.

(1) The first court order remanding a child into foster care or into direct placement with a relative or other suitable person in a proceeding pursuant to article 10 or approving a voluntary placement

instrument pursuant to section 358-a of the Social Services Law must contain a date certain for the initial permanency hearing pursuant to article 10-A of the Family Court Act, which must be not later than eight months from the date of removal of the child from his or her home. If the child has a sibling or half-sibling removed from the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling's or half-sibling's permanency hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or person in need of supervision petition or unless either sibling has been freed for adoption.

(2) A permanency hearing with respect to a child who has been freed for adoption shall be scheduled for a date certain not more than 30 days after the earlier of the Family Court's oral announcement of its decision or the signing and filing of its decision freeing the child for adoption.

(3) In any case in which the court has made a determination, pursuant to section 1039-b or 1052(b) of the Family Court Act or section 358- a(3)(b) of the Social Services Law, that reasonable efforts to reunify the child with his or her parents are not required, a permanency hearing must be scheduled for a date certain within 30 days of the determination and the originally scheduled date shall be cancelled. In such a case, a permanency hearing report shall be transmitted to the parties and counsel, including the law guardian, on an expedited basis as directed by the court.

(4) Each permanency hearing order must contain a date certain for the next permanency hearing, which shall be not more than six months following the completion of the permanency hearing, except as provided in paragraph (3) of this subdivision. Except with respect to a child freed for adoption, if the child has a sibling or half-sibling removed from the home, whose permanency

hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling's or half-sibling's permanency hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or person in need of supervision petition or unless either sibling has been freed for adoption.

(5) If the child has been adopted or has been the subject of a final order of discharge or custody or guardianship by the scheduled date certain, the permanency hearing shall be cancelled and the petitioner shall promptly so notify the court, all parties and their attorneys, including the law guardian, as well as all individuals required to be notified of the hearing pursuant to Family Court Act, section 1089.

(c) Required notice and transmittal of permanency reports. Except in cases involving children freed for adoption, in addition to sending the permanency hearing report and accompanying papers to the respondent parents' last-known address and to their attorneys not less than 14 days in advance of the hearing date, the petitioner shall make reasonable efforts to provide actual notice of the permanency hearing to the respondent parents through any additional available means, including, but not limited to, case-work, service and visiting contacts. Additionally, not less than 14 days in advance of the hearing date, the petitioner shall send a notice of the permanency hearing and the report and accompanying documents to the non-respondent parent(s) and the foster parent or parents caring for the child, each of whom shall be a party, and to the law guardian. Petitioner shall also send the notice and report to a pre-adoptive parent or relative providing care for the child and shall send a notice, but not the report, to former foster parents who cared for the child in excess of one year unless the court has dispensed with such notice in accordance with paragraph two of subdivision (b) of section 1089 of the Family Court Act. The court shall give such persons an opportunity to be heard, but they shall not be

considered parties and their failures to appear shall not constitute cause to delay the hearing. As provided in subdivision (d) of this section, the petitioner shall submit on or before the return date documentation of the notice or notices given to the respondent and non-respondent parents, their attorneys, the law guardian, and any present or former foster parent, pre-adoptive parent or relative.

(d) Required papers to be submitted.

(1) A sworn permanency report shall be submitted on the form officially promulgated by the Chief Administrator of the Courts and set forth in Chapter IV of Subtitle D of this Title, and shall contain all information required by section 1089 of the Family Court Act.

(2) The permanency report shall be accompanied by additional reports and documents as directed by the court, which may include, but not be limited to, periodic school report cards, photographs of the child, clinical evaluations and prior court orders in related proceedings.

(3) The copy of the report submitted to the Family Court must be sworn and must be accompanied by a list of all persons and addresses to whom the report and/or notice of the permanency hearing were sent. Except as otherwise directed by the Family Court, the list containing the addresses shall be kept confidential and shall not be part of the court record that may be subject to disclosure pursuant to section 205.5 of this Title. The copies of the permanency hearing report required to be sent to the parties and their attorneys, including the law guardian, not less than 14 days prior to the scheduled date certain need not be sworn so long as the verification accompanying the Family Court's sworn copy attests to the fact that the copies transmitted were identical in all other respects to the court's sworn copy.

(e) In any permanency hearing under Article 10-A of the Family Court Act, the child shall be represented by a law guardian and the Family Court shall consider the child's position regarding

the child's permanency plan.

Section 205.48 Judicial and extra-judicial surrenders; required papers and putative father determination.

(a) In addition to the judicial or extra-judicial surrender instrument and, if applicable, the post-adoption contact agreement and petition for approval of an extra-judicial surrender, the petitioner shall submit a copy of the child's birth certificate.

(b) Where the surrender is by the birth mother:

(1) The petitioner shall also submit:

(i) the response from the putative father registry that is current within 60 days prior to the filing of the surrender proceeding;

(ii) a sworn written statement, if any, by the mother naming the father; and

(iii) a sworn written statement by the caseworker setting forth information regarding any putative father whose consent to adopt is required by section 111 of the Domestic Relations Law or who is entitled to notice of an adoption pursuant to section 111-a of the Domestic Relations Law.

(2) Where a determination has not yet been made by the court regarding any putative father whose consent to adopt is required or who is entitled to notice of an adoption, the proceeding shall be referred to the Family Court judge on the date of filing or the next court date for a determination regarding who must be notified of the surrender proceeding. Except for good cause shown or unless the putative father has previously defaulted in a termination of parental rights proceeding regarding the child, the surrender proceeding shall not be scheduled for execution of a judicial surrender or approval of an extrajudicial surrender, as applicable, until a determination regarding required notices and consents have been made by the Court.

Section 205.49 Termination of parental rights; required papers; venue; putative father determination.

(a) This section shall apply to petitions filed pursuant to Part 1 of Article Six of the Family Court Act and section 384-b of the Social Services Law.

(b) The petitioner shall submit a copy of the child's birth certificate with the petition.

(c) Where the petition is filed to terminate the birth mother's rights:

(1) The petitioner shall also submit:

(i) the response from the putative father registry that is current within 60 days prior to the filing of the termination of parental rights proceeding;

(ii) a sworn written statement, if any, by the mother naming the father; and

(iii) a sworn written statement by the caseworker setting forth information regarding any putative father who is entitled to notice of the proceeding pursuant to section 384-c of the social services law.

(2) Where a determination has not yet been made by the court regarding any putative father who is entitled to notice of the proceeding pursuant to section 384-c of the social services law, the petition shall be referred to the Family Court judge on the date of filing or the next court date for a determination regarding who must be notified of the proceeding. Except for good cause shown, the petition shall not be scheduled for a fact-finding hearing until a determination regarding required notices has been made by the court.

(d) Where a child is under the jurisdiction of the Family Court as a result of a placement in foster care pursuant to Article 10 or 10-A of the Family Court Act or section 358-a of the social services law, the petition regarding termination of parental rights to the child shall be assigned, wherever practicable, to the Family Court judge who last presided over the child's child protective, foster care placement or permanency proceeding or over a termination of parental rights proceeding involving the child's other parent. Where the petition has been filed regarding

such a child either before a different judge in a different court or before a court in a different county, the petitioner shall so indicate in the petition and the petitioner's attorney shall file an affirmation on a uniform form promulgated by the Chief Administrator of the Courts attesting to the reasons for, and circumstances regarding, such filing. The court in which the petition has been filed shall stay the proceeding for not more than 30 days in order to communicate with the Family Court judge who presided over the child's most recent child protective, foster care placement or permanency hearing or the termination of parental rights or surrender for adoption proceeding involving the child's other parent, and in order to afford the parties and law guardian in the respective proceedings an opportunity to be heard orally, in person or by telephone, or in writing. Pursuant to paragraph (c-1) of subdivision three of section 384-b of the Social Services Law, the Family Court judge who presided over the child's case shall determine whether the termination of parental rights petition should be transferred or should be heard in the court in which it has been filed and shall record that determination on a uniform form promulgated by the Chief Administrator of the Courts. This determination shall be incorporated by the court in which the termination of parental rights petition has been filed into an order on a uniform form promulgated by the Chief Administrator of the Courts either retaining or transferring the petition. If the termination of parental rights petition is to be transferred, the transfer must take place forthwith, but in no event more than 35 days after the filing of the petition.

Section 205.52 Adoption rules; application; timing and venue of filing of petition.

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(c) Where a child is under the jurisdiction of the Family Court as a result of a placement in foster care pursuant to Article 10 or 10-A of the Family Court Act or section 358-a of the social

services law, the adoption petition regarding the child shall be assigned , wherever practicable, to the Family Court judge who last presided over the child's child protective, foster care placement, permanency, surrender or termination of parental rights proceeding. Where the adoption petition has been filed regarding such a child either before a different judge in a different court or before a court in a different county, the petitioner shall so indicate in the petition and the petitioner's attorney shall file an affirmation by the attorney for the petitioner on a uniform form promulgated by the Chief Administrator of the Courts attesting to the reasons for, and circumstances regarding, such filing. The court in which the adoption petition has been filed shall stay the proceeding for not more than 30 days in order to communicate with the Family Court judge who presided over the child's most recent child protective, foster care placement, permanency, termination of parental rights or surrender proceeding, and afford the agency attorney and law guardian in the respective proceedings an opportunity to be heard orally, in person or by telephone, or in writing. Pursuant to section 113 of the Domestic Relations Law, the Family Court judge who presided over the child's case shall determine whether the adoption petition should be transferred or should be heard in the court in which it has been filed and shall record that determination on a uniform form promulgated by the Chief Administrator of the Courts. This determination shall be incorporated by the court in which the adoption petition has been filed into an order on a uniform form promulgated by the Chief Administrator of the Courts either retaining or transferring the petition. If the adoption petition is to be transferred, the transfer must take place forthwith, but in no event more than 35 days after the filing of the petition.

Section 205.53 Papers required in an adoption proceeding.

- (a) All papers submitted in an adoption proceeding shall comply with section 205.7 of this Part.
- (b) In addition to those papers required by the Domestic Relations Law, the following papers,

unless otherwise dispensed with by the court, shall be submitted and filed prior to the placement of any adoption proceeding on the calendar:

- (1) a certified copy of the birth certificate of the adoptive child;
- (2) an affidavit or affidavits by an attorney admitted to practice in the State of New York or, in the discretion of the court, by a person other than an attorney who is known to the court, identifying each of the parties;
- (3) a certified marriage certificate, where the adoptive parents are husband and wife or where an individual adoptive parent is the spouse of the [natural] birth parent;
- (4) a certified copy of a decree or judgment, where an adoptive parent's marriage has been terminated by decree or judgment;
- (5) a certified death certificate, where an adoptive or [natural] birth parent's marriage has been terminated by death or where it is alleged that consent or notice is not required because of death;
- (6) a proposed order of adoption;
- (7) a copy of the attorney's affidavit of financial disclosure filed with the Office of Court Administration pursuant to section 603.23, 691.23, 806.14 or 1022.33 of this Title; and either an attorney's affirmation that the affidavit has been personally delivered or mailed in accordance with such rules or the dated receipt from the Office of Court Administration; [and]
- (8) an affidavit of financial disclosure from the adoptive parent or parents, and from any person whose consent to the adoption is required by law, setting forth the following information:
 - (i) name, address and telephone number of the affiant;
 - (ii) status of the affiant in the proceeding and relationship, if any, to the adoptive child;
 - (iii) docket number of the adoption proceeding;
 - (iv) the date and terms of every agreement, written or otherwise, between the affiant and any attorney pertaining to any fees, compensation or other remuneration paid or to be paid by or on

behalf of the adoptive parents or the [natural] birth parents, directly or indirectly, including but not limited to retainer fees on account of or incidental to the placement or adoption of the child or assistance in arrangements for such placement or adoption;

(v) the total amount of fees, compensation or other remuneration to be paid to such attorney by the affiant, directly or indirectly, including the date and amounts of each payment already made, if any, on account of or incidental to the placement or adoption of the child or assistance in arrangements for such placement or adoption;

(vi) the name and address of any other person, agency, association, corporation, institution, society or organization who received or will receive any fees, compensation or other remuneration from the affiant, directly or indirectly, on account of or incidental to the birth or care of the adoptive child, the pregnancy or care of the adoptive child's birth mother or the placement or adoption of the child and on account of or incidental to assistance in arrangements for such placement or proposed adoption; the amount of each such fee, compensation or other remuneration; and the reason for or services rendered, if any, in connection with each such fee, compensation or other remuneration; and

(vii) the name and address of any person, agency, association, corporation, society or organization who has or will pay the affiant any fee, compensation or other remuneration, directly or indirectly, on account of or incidental to the birth or care of the adoptive child, the pregnancy or care of the adoptive child's birth mother, or the placement or adoption of the child and on account of or incidental to assistance in arrangements for such placement or adoption; the amount of each such fee, compensation or other remuneration; and the reason for or services rendered, if any, in connection with each such fee, compensation or other remuneration;

(9) in the case of an adoption from an authorized agency in accordance with title 2 of article 7 of the Domestic Relations Law, a copy of the criminal history summary report made by the New

York State Office of Children and Family Services to the authorized agency pursuant to section 378-a of the Social Services Law regarding the criminal record or records of the prospective adoptive parent or parents and any adult over the age of 18 currently residing in the home, including fingerprint-based records of the national crime information databases, as defined in section 534(e)(3)(A) of Title 28 of the United States Code, as well as a report from the New York State Central Registry of Child Abuse and Maltreatment regarding any indicated reports regarding the prospective adoptive parent or parents and any adult over the age of 18 currently residing in the home and from the child abuse and maltreatment registry, if any, of any state in which the prospective adoptive parents and any adult over the age of 18 have resided during the five years immediately prior to the filing of the petition;

(10) in the case of an adoption from an authorized agency, an affidavit by the attorney for the agency attesting to the fact that no appeal from a surrender, surrender revocation or termination of parental rights proceeding is pending in any court and that a notice of entry of the final order of disposition of the surrender, surrender revocation or termination of parental rights proceeding had been served upon the law guardian, the attorneys for the respondent parents or the parents themselves, if they were self-represented, as well as any other parties; [and]

(11) in the case of an adoption from an authorized agency in which a post-adoption contact agreement has been approved by the Family Court in conjunction with a surrender of the child, a copy of the post-adoption contact agreement, as well as the order of the Court that approved the agreement as being in the child's best interests, and

(12) in the case of an adoption petition filed either before a different judge in a different court or a court in a different county regarding a child under the jurisdiction of the Family Court as a result of a placement in foster care pursuant to Article 10 or 10-A of the Family Court Act or section 358-a of the Social Services Law, an affirmation by the attorney for the petitioner on a

uniform form promulgated by the Chief Administrator of the Courts attesting to the reasons for, and circumstances regarding, such filing.

(c) Prior to the signing of an order of adoption, the court may in its discretion require the filing of a supplemental affidavit by the adoptive parent or parents, any person whose consent to the adoption is required, the authorized agency and the attorney for any of the aforementioned, setting forth any additional information pertaining to allegations in the petition or in any affidavit filed in the proceeding.

Section 205.81 Procedures for compliance with Adoption and Safe Families Act (child protective proceeding)

(a) Temporary removal; required findings. In any case in which removal of the child is ordered by the court pursuant to part 2 of article 10 of the Family Court Act, the court shall set a date certain for a permanency hearing in accordance with section 205.17 of this Part and shall make additional, specific written findings regarding the following issues:

* * *

Section 205.86 [Videotapes] Video recording of interviews of children alleged to have been sexually abused.

(a) In any case in which, pursuant to section 1038(c) of the Family Court Act, a [videotape] video recording is made of an expert's interview with a child alleged to have been sexually abused, the attorney for the party requesting the [videotaping] video recording, or the party, if unrepresented, shall promptly after the [videotaping] video recording has been completed:

(1) cause to be prepared a duplicate [videotape] video recording, certified by the preparer as a complete and unaltered copy of the original [videotape] video recording;

(2) deposit the original [videotape] video recording, certified by the preparer as the original,

with the Clerk of the Family Court; and

(3) submit for signature to the judge before whom the case is pending a proposed order authorizing the retention of the duplicate [videotape] video recording by the attorney, (or the party, if unrepresented) and directing that retention be in conformance with this section.

Both the original [videotape] video recording and the duplicate thereof shall be labelled with the name of the case, the Family Court docket number, the name of the child, the name of the interviewer, the name and address of the technician who prepared the [videotape] video recording, the date of the interview, and the total elapsed time of the [videotape] video recording.

(b) Upon receipt, the clerk shall hold the original [videotape] video recording in a secure place limited to access only by authorized court personnel.

(c) (1) Except as provided in paragraph (2) of this subdivision, the duplicate [videotape] video recording shall remain in the custody of the attorney for the party who requested it, or the party, if not represented (the "custodian").

(2) The duplicate [videotape] video recording shall be available for pretrial disclosure pursuant to article 10 of the Family Court Act and any other applicable law. Consistent therewith, the custodian shall permit an attorney for a party, or the party, if not represented by counsel, to borrow the duplicate [videotape] video recording for a reasonable period of time so that it may be viewed, provided the person to whom it is loaned first certifies, by affidavit filed with the court, that he or she will comply with this subdivision.

(3) A person borrowing the duplicate [videotape] video recording as provided in paragraph (2) of this subdivision shall not lend it or otherwise surrender custody thereof to any person other than the custodian, and upon returning such [videotape] video recording to the custodian, such

person shall certify, by affidavit filed with the court, that he or she has complied with the provisions of this subdivision.

(4) Subject to court order otherwise, the duplicate [videotape] video recording may not be viewed by any person other than a party or his or her counsel or prospective expert witnesses. No copy of the duplicate [videotape] video recording may be made.

(d) Failure to comply with the provisions of this rule shall be punishable by contempt of court.

Dated:

Chief Administrative Judge of the Courts

AO/

/2007