
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

Date Revised: August 19, 2004

Number: C-0603

Permanency Planning Mediation

Purpose The purpose of this procedure is to describe the process for making a Permanency Planning Mediation (PPM) referral and for including the PPM agreement in the Adoption Finalization Court Report.

Approved This revised policy was approved by Michael Riley, Ph.D., Director of CFS, on August 19, 2004. *Signature on file.*

Background Post adoption contact agreements, in California, were initiated with the passage of AB 1544 in 1997. One provision of AB 1544 added Section 8714.7 to the Family Law Code. Family Law Code Section 8714.7 provided for the development, contents and enforcement of Kinship Adoption Agreements. Kinship Adoption Agreements allowed post adoption contact between the adopted child and his/her birth relatives when the adoptive parents are relatives of the child.

Implementation of Kinship Adoptive Agreements achieved its intended goal of expediting adoption proceedings by assuaging parent's concerns and fears of relinquishing for adoption, and the relatives reluctance to finding the parents unfit in order to be able to adopt relative children. This success led to further legislation in 2000 (AB 2921 and SB 2157) that extended this option to non-relative adoptive parents. Family Law Section 8714.7 was amended to change the name to Post Adoption Contact Agreement and the Section number to 8616.5.

To assist with the implementation of the legislation of 2000, the California Department of Social Services (CDSS) entered into a contract with Consortium for Children to provide Permanency Placement Mediation. Further, the Orange County Juvenile Court

issued Miscellaneous Order 749.2 ([Attachment 1](#)) to authorize the sharing of information between CFS and the Consortium for Children. Orange County CFS will use that agency to provide mediation (PPM) services for the purpose of developing a Post Adoption Contact Agreement.

A section of AB 705 of 2001 amended Welfare and Institutions Code (WIC) Section 366.29(c) to provide that upon issuance of the order of adoption of a dependent child, the juvenile court's jurisdiction is generally terminated except that the court shall maintain limited jurisdiction post-adoption, for the purpose of enforcing post-adoption contact agreements.

- Legal Mandates**
- [Family Code Section 8616.5](#)
 - [Welfare and Institutions Code Section 366.29\(c\)](#)
 - [Adoptions Users Manual Section 35209.1—Post Adoption Contact Agreements](#)
 - [All County Information Notice I-04-00, 2/02/2000-Permanency Planning Mediation](#)
 - [Miscellaneous Order 749.2 \(Attachment 1\)](#)
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POLICY

- General Policy**
- A PPM referral shall be made for all cases when Family Reunification (FR) services will not be offered or when the assigned SSW is recommending the termination of FR.
- The assigned SSW shall consult with his/her SSSS to determine if a compelling reason, such as the safety of the child, exists for not making a PPM referral.
- All PPM referral decisions are to be documented in the case record.
- The assigned SSW is responsible for completing the PPM referral.
- If any of the parties entitled to request a PPM does so, a referral must be completed unless a bench officer orders otherwise.

REFERENCES

Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on them.

- [AB 1544 – 1997](#)
 - [AB 2921 – 2000](#)
 - [SB 2157 – 2000](#)
 - [AB 705 – 2001](#)
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REQUIRED FORMS

Online Forms

Required forms that may be printed out and completed, or completed online, are listed below and may be accessed by clicking on the link provided.

Form Name	Form Number
Permanency Planning Mediation Referral Form	(Consortium For Children website)

Brochures

Brochures and other informational handouts to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
An Introduction to the Post-Adoption Contact Agreement	F063-18-288
How to Create a Post-Adoption Contact Agreement	F063-18-290
General Information	(Consortium For Children website)
Information for Parents	(Consortium For Children website)
Information for Prospective Permanent Family	(Consortium For Children website)

PROCEDURE

<p>Required Actions— Making a PPM Referral</p>	<p>The following actions must be completed when FR services are not offered or when the SSW recommends that FR services be terminated.</p> <p>Note: A release of information is not required to make a referral. The Presiding Judge of Orange County Juvenile Court has authorized SSA, via Miscellaneous Order 749.2, to release information to the Consortium for Children for the purposes of Permanency Planning Mediation.</p>		
	<p>Staff Responsible</p>	<p>Step</p>	<p>Required Action</p>
	<p>Primary SSW and SSSS</p>	<p>1.</p>	<p>Consult with each other regarding case issues and the appropriateness of a referral.</p> <p>Note: Consultation should take place prior to a court hearing when the recommendation will be one of those identified in the PPM Guidelines section below.</p> <p>Note: A referral shall be made unless there is a compelling reason, such as the safety of the child, not to do so.</p>
	<p>Primary Assigned SSW</p>	<p>2. 3.</p>	<p>Document the referral decision in CWS/CMS. (Create a collateral contact.)</p> <p>Discuss the PPM process with involved parties and:</p> <p>a. Provide them with one of the three Consortium for Children pamphlets.</p> <ul style="list-style-type: none"> • General Information • Information for Parents • Information for Prospective Permanent Family <p>b. Provide them with the following forms:</p>

- An Introduction to the Post-Adoption Contact Agreement – F063-18-288
- How to Create a Post-Adoption Contact Agreement – F063-18-290

Adoption Program Manager

4. Complete the PPM referral (see [Attachment II, PPM Referral Guide](#)).
5. E-mail a copy of the completed PPM referral form to the Adoption Program Manager, Building #130, with a copy to the Adoption Program Manager’s secretary.
6. Receive the completed PPM referral form.
7. Review, or designate staff to review, the PPM referral form for completeness.
8. Sign and fax the original PPM referral to Consortium for Children at (415) 453-2264. Also, send a copy of the approved PPM referral form to the referring SSW.
9. Adoption Division maintains a log of all referrals processed.

Required Actions—Adoption Finalization Court Report

The following actions must be completed to address the Post Adoption Contact Agreement when the Adoptive Home Study Worker completes the Adoption Finalization Court Report.

<u>Staff Responsible</u>	<u>Step</u>	<u>Required Action</u>
Home Study SSW	1.	Address Post Adoption Contact Agreement in the Adoption Finalization Court Report by including under the heading “Proposed Post Contact Agreement:” Note: If there is no Post Adoption Contact Agreement, then include the statement “The adopting parents have decided not to enter into a Post Adoptive Contact Agreement,” under this heading.

2. Include the statement “The proposed Post Adoption Contact Agreement meets statutory requirements” OR the statement “The proposed Post Adoption Contact Agreement does not meet statutory requirements.”

Note: If the agreement does not meet statutory requirements, then address the requirements that are not met and why.

Example: “The child who is the subject of this adoption petition is 14 years old and has not signed the proposed Post Adoption Contact Agreement. The law requires children 12 years of age and older to sign the agreement.”

3. If the agreement is not in the child’s best interest, then address the provisions that would be harmful and provide a thorough rationale for your recommendation.

Example: “The proposed agreement provides for monthly unmonitored telephone contact between the child and her birth father. The birth father was convicted of molesting the child and has made threatening statements to the child about taking her from the adoptive home. These proposed contacts pose a serious threat to the child’s emotional well-being.”

4. Include in the Recommendation section of the court report the statement:

“It is respectfully recommended that the proposed Post Adoption Contact Agreement attached to this report be ordered as part of the finalization decree.”

OR

“It is respectfully recommended that the proposed Post Adoption Contact Agreement attached to this report not be ordered as part of the finalization decree.”

5. Include a brief summary of parties and provisions of the agreement.

Example: “The attached proposed Post Adoption contact Agreement provides for monthly visits between the child and his birth mother to be monitored by the adopting parents and will take place in the child’s adoptive home.”

6. In In Pro Per cases, include copies of the After Adoption Contact Agreement (AD 310) in the forms packet if the adopting parent is planning to enter into an agreement.
 7. Sign the Adoption Report to the Court and submit with the Post Adoption Contact Agreement to the SSSS for review.
 - Adoptions SSSS** 8. Review Adoption Report to the Court and the Post Adoption Contact Agreement for accuracy and appropriateness, sign report, if approved, and give it to Adoptions clerical for processing.
 - Adoptions Clerical** 9. Review case documents for completeness and route them to the court for finalization.
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Permanency Planning Mediation Protocol

Consortium for Children (CFC)

The CFC Mediation Director will:

- Call assigned SSW’s to review safety issues for child and mediator
- Assign mediator
- Notify the birth parents and all appropriate stakeholders, by mail, of pending mediation

CFC Agreements

The CFC Mediator will:

- Contact all stakeholders within five (5) business days of receiving referral
- Consult with SSW’s for total vision of plan for child
- Keep SSW’s updated on mediation progress within bounds of privilege
- Contact referring party, if different from assigned SSW
- When appropriate, call SSW’s to schedule relinquishment counseling appointment

- Consult with birth family member(s) in accordance with PPM curriculum
- Review the provisions of Family Code Section 8616.5 with all parties involved in the mediation
- Work towards a permanent plan and agreement, keeping in mind the case plan goal identified by CFS staff
- Work towards a written contact agreement with prospective permanent parent and birth family, if appropriate

Written Agreement

The CFC Mediator will:

- Consult with the following parties to review agreement:
 - SSW's
 - child/parent counsel
 - County Counsel
- Consult with the following parties to review and sign written agreement:
 - Birth parent(s)
 - Prospective permanent parent(s)
- Forward a copy of signed agreement to:
 - Adoption Program Manager's secretary
 - SSW's
 - Child, parent, and county counsel
 - Birth parent
 - Relatives, if applicable
 - Prospective permanent parents (adoptive or guardianship)
- Notify the Adoption Program Manager's Secretary and all stakeholders if mediation is not successful

Relinquishment

When and if appropriate during the mediation process, the CFC mediator will refer to the Adoption or Concurrent Planning SSW for relinquishment. The relinquishment should be signed after the written agreement is completed.

Permanency Planning Guidelines

What is Permanency Planning Mediation (PPM)?

PPM is:

- A specialized mediation process that can be offered to birth and adoptive families/children when it becomes clear that reunification will not be successful and preferably before any court action to terminate parental rights begins
- An alternative child and family focused resolution tool intended to allow parents in the dependency system to have an opportunity to plan cooperatively for their child's permanency plan
- A process that engages a child's birth parents in making a permanent plan for their child focused on the best interest of the child as well as providing an opportunity for openness between prospective adoptive parents and the significant persons in the child's life such as birth parents, siblings and relatives
- A free, voluntary and confidential service
- Mediation is a contracted service between CDSS and Consortium for Children
- A goal of a written agreement, that would become a court order upon finalization, outlining agreed upon on-going contact that is appropriate/safe for the child/adoptive and birth families
- An agreement ranging from:
 - No direct contact – letters or photos exchanged between adults
 - TO**
 - In-person contact with visitation between child, sibling, birth parents, or extended family

PPM Considerations

A PPM referral shall be made when:

- The child is a dependent of the Juvenile Court
- The case recommendation is to terminate FR services or when FR services will not be offered
- Either of the child's caregivers are willing to adopt OR the child can be moved to a prospective adoptive family without detriment and the birth family/prospective adoptive parents/siblings or relatives agree to participate in mediation
- Considering a permanent plan change from LTFC of Legal Guardianship to Adoptions

Regardless of who requests the referral, participation by any of the parties is totally voluntary.

The appropriateness of a PPM referral will be decided in consultation between the SSW and SSSS. The case decision is to be documented in CWS/CMS.

The Role Of The Child In The PPM Process

A plan should not be developed without knowledge of the child's wishes for ongoing contact.

- Although the Family Law Code mandates participation and legal representation for children age 12 and older, all children, as developmentally appropriate, should be part of the decision process
- Discussion should include the child's desire/willingness for on-going direct or indirect contact with birth parents, sibling or extended family

Who May Request A Referral?

Any of the following may request a referral:

- Child
- Birth family
- Adoptive family
- Siblings
- Relatives
- SSW/SSSS
- Judges
- Commissioners
- Child's attorney
- Parent's attorney
- County Counsel

Potential Stakeholders

The following are potential stakeholders/participants in the PPM process (participation in the process is voluntary for all participants):

- Birth parents
- Prospective permanent parents (adoptive or guardian)
- Attorneys
- Child, if age 12 or older and those younger who are developmentally appropriate
- Siblings
- Court
- CASA
- SSW's

- Primary dependency
- Concurrent \ planning
- Adoption Child Worker
- Adoption home study worker

- Relatives
- Significant extended family
- Legal guardian
- Other as approved by the Adoption Program Manager

**Legal
Implications Of
An Agreement**

The legal implications of complying with PPM referral or an established agreement are identified in Family Code Section 8616.5.

- A. The court entering an adoption decree pursuant to Family Code Section 8714 or 8714.5 may grant post adoptive privileges if such an agreement is beneficial to the child and has been entered into voluntarily by all involved parties.
- B. The Post Adoption Contact Agreement shall be limited to, but need not include all of the following provisions:
 - Visitation between the child, birth parents and other birth relatives (including siblings)
 - Future contact between the birth parents or other birth relatives and the child and/or the adoptive parents
 - The sharing of information about the child in the future
- C. The subject child of an adoption petition shall be considered a party to the Post Adoption Contact Agreement.
 - The written consent to the agreement by a child 12 years of age or older is a necessary condition to the granting of post adoption privileges, unless the court finds by a preponderance of the evidence, that the agreement is in the best interest of the child
 - Any child who is a (Section 300) dependent of the court or who is a subject of a Section 300 petition shall be represented by an attorney for the purpose of the consent to the Post Adoption Contact Agreement
- D. A Post Adoption Contact Agreement shall contain the following warnings:
 - After the adoption has been granted, it cannot be set aside due to the failure of any of the parties to follow the terms of the agreement or any later amendments to it
 - A disagreement between the parties or litigation to enforce or modify the agreement shall not affect the validity of the

- adoption nor serve as a basis for orders affecting the custody of the child
- A court will not act on a petition to amend or enforce the agreement unless the petitioner has participated or attempted to participate in good faith mediation or other appropriate dispute resolution proceedings
- E. Upon issuing of the order of adoption of a dependent child, juvenile court dependency jurisdiction shall be terminated.
- F. Enforcement of the Post Adoption Contact Agreement shall be under the continuing jurisdiction of the court granting the petition of adoption.
- The court must find that the petitioner participated, or attempted to participate, in appropriate dispute resolution proceedings, and that enforcement is in the child's best interest prior to ordering compliance
 - No testimony or evidentiary hearing shall be required
 - Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement
 - Prior to ordering further investigation or evaluation by a public or private agency or individual, the court must find, by clear and convincing evidence, that the best interests of the child may be protected or advanced only by such inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child
- G. The court may not award monetary damages as a result of the filing of a civil action to enforce the Post Adoption Contact Agreement.
- H. A Post Adoption Contact Agreement may be modified or terminated only if either of the following occurs:
- All parties, including a child 12 years of age or older, have signed a modified Post Adoption Contact Agreement and the agreement is filed with the court that granted the petition for adoption
 - The court finds all of the following:
 - The termination or modification is in the child's best interest
 - There has been a substantial change of circumstances since the original agreement was executed and granted by the court

➤ The petitioner has participated, or attempted to participate , in appropriate dispute resolution proceedings prior to seeking the court's approval of their desired action

- No testimony or evidentiary hearing shall be required
- Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement
- Prior to ordering further investigation or evaluation by a public or private agency or individual, the court must find, by clear and convincing evidence, that the best interests of the child may be protected or advanced only by such inquiry and that the inquiry will not disturb the stability of the child's home to the detriment of the child

I. Costs and fees:

- All costs and fees of dispute resolution proceedings shall be borne by each party, excluding the child
- All costs and fees of litigation shall be borne by the party filing the action when no party has been found by the court as failing to comply with the Post Adoption Contact Agreement
- Otherwise, all costs and fees of litigation shall be borne by the party, other than the child, found by the court as failing to comply with the Post Adoption Contact Agreement without good cause
- The court shall not set aside a decree of adoption, rescind a relinquishment, or modify an order to terminate parental rights or any other prior court order because of the failure of any of the parties to comply with any or all of the original or subsequently modified terms of the Post Adoption Contact Agreement