

CONDITIONAL SURRENDERS - ISSUES TO CONSIDER

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Agency should have a written pre-defined policy regarding what kinds of cases and in what ways surrenders with conditions would be accepted. The parties should be able to discuss the possible terms in an open way, with attorneys present and with enough time to consider the matter carefully.

Who could be included in the discussion?

Foster parents/adoptive parents and their counsel (must sign if designated), Child's Attorney (must sign), child at a particular age (must sign if over 14 and sib visits), DSS on-going worker, adoption worker, DSS counsel (someone from DSS must sign), child's therapist/counselor, parent's therapist/ counselor, birth parents and their counsel(must sign)

When should the process take place and how? - Should the agency still accept conditional surrenders after a certain point in a TPR?

What kinds of terms have been used?

- clarifying that the adoption will take time
- specifying the adoptive parent or clarifying that there is no adoptive parent yet identified
- specifying procedure if the identified adoptive parent can not adopt
- exchanging ongoing information about the child - school, photos, reports
- exchanging ongoing health information - one way or both ways
- visitation - frequency, structure, supervision, changes, failure to exercise
- name changes
- supportive statements
- phone calls, letters, gifts
- sibling information or contact
- grandparent contact

Policy and procedure if there are disagreements - what should agency role be, if any?

Does everyone understand legal requirements if failure of terms before and after the adoption?

Should there be a "dead man's clause" for failure of birth parent to appear for visits?

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