

**DIVISION OF CHILDREN AND FAMILY SERVICES**  
**ADMINISTRATIVE MEMO #12-2010**

**To:** Children and Family Services Specialists, Supervisors, Administrators,  
and Service Area Administrators

**From:** Edward H. Matney, Policy Section Administrator  
Division of Children and Family Services *Ed Matney*

**Approved by:** Todd L. Reckling, Director *Todd L. Reckling*  
Division of Children and Family Services *by G*

**Date:** October 28, 2010

**RE:** Acceptance of Parental Relinquishment

**Effective:** Immediately

**Duration:** Until Revised

**Contact:** Mary Dyer, Program Specialist, Children and Family  
Services, Policy Section at (402)471-9331 or at  
mary.dyer@nebraska.gov

**Purpose:** To provide instructions for implementation of recent Nebraska Supreme Court decisions.

**Background:** DHHS regulations 8-004.01 through 8-004.06 and the Court and Legal for Child Abuse, Neglect, Dependency and Status Offense Guidebook (page 15 and following) address a parent's relinquishment of parental rights, including when DHHS can or will accept a parent's relinquishment. These materials are based on the supposition that only DHHS has the authority to make the decision to accept a relinquishment to DHHS.

In July, 2010, the NE Supreme Court handed down two decisions which change that supposition. In *Re: Gabriella H.*, the Supreme Court ruled that the lower court can require DHHS to accept a relinquishment when:

1. The court determines it is in the best interest of the child for the relinquishment to be accepted, in order to enable permanency; and
2. The child has been adjudicated as a 43-247 (3)(a); and
3. The permanency objective is adoption.

In *Cornelius K.*, the Supreme Court ruled that the lower court could not order DHHS to accept the parent's relinquishment, because the child had not been adjudicated, and there was no permanency objective of adoption.

**Required Action:** DHHS staff must continue to follow the above-cited regulations and guidebook instructions regarding when it is appropriate for DHHS to recommend, take, and accept a relinquishment, including mandatory consultation with the CFS Supervisor. In addition, if a parent has signed a relinquishment to DHHS, and the CFS Supervisor determines that accepting the relinquishment is not in the child's best interest, the

Supervisor must immediately consult with the Service Area Administrator to determine what DHHS' decision will be. For example, DHHS might choose not to accept a relinquishment when the parent's abuse of the child is so egregious that it is important to have a termination of parental rights which could serve as evidence for subsequent termination of rights to another child in the future.

If the Service Area Administrator agrees that the relinquishment should not be accepted, staff must contact the Department's Legal Team immediately. The purpose of this contact is to receive assistance in determining what stance DHHS will take, and to build a case in court for a potential appeal, should the court order DHHS to accept the relinquishment. If, after consultation with the Department's Legal Team, the Service Area's intention still is not to accept the relinquishment, the Service Area Administrator must provide information on the circumstances and intention to deny to the Director of Children and Family Services, who may choose to uphold or disagree with the decision.