

# Texas Administrative Code

<u>TITLE 1</u>	ADMINISTRATION
<u>PART 3</u>	OFFICE OF THE ATTORNEY GENERAL
<u>CHAPTER 55</u>	CHILD SUPPORT ENFORCEMENT
<u>SUBCHAPTER J</u>	VOLUNTARY PATERNITY ACKNOWLEDGMENT PROCESS

## Rules

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### **RULE §55.401 Scope**

Fathers and mothers who wish to voluntarily establish paternity for their child or rescind a previously executed Acknowledgment of Paternity or Denial of Paternity may do so through any local child support office of the Office of the Attorney General, Child Support Division; the Texas Department of State Health Services, Vital Statistics Unit; a local birthing hospital or birthing center; or any entity certified by the Office of the Attorney General to provide such services. The Acknowledgment of Paternity must be executed according to the rules contained herein and under the Texas Family Code, Chapter 160, Subchapter D, Voluntary Acknowledgment of Paternity. Entities that are required by law to provide paternity establishment services and entities that voluntarily elect to provide paternity establishment services must abide by the rules of this subchapter.

### **RULE §55.402 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Acknowledgment of Paternity form--An agreement affirming parentage for a child signed by both the man claiming to be the biological father and the mother, that is executed on a form prescribed by the Texas Department of State Health Services, Vital Statistics Unit. The mother and the father may sign separate acknowledgments before or after the birth of the child.
- (2) Denial of Paternity form--A statement executed by a presumed father denying parentage of the child of whom he is presumed to be the father, on a form prescribed by the Texas Department of State Health Services, Vital Statistics Unit.
- (3) Rescission of Acknowledgment of Paternity form – A statement executed by a signatory rescinding an Acknowledgment of Paternity or Denial of Paternity, on a form prescribed by the Texas Department of State Health Services, Vital Statistics Unit.
- (4) Certified entity--An agency, organization, or individual that is certified by the Office of the Attorney General to perform voluntary paternity establishment services. The certified entity must comply with all rules established for such certification.
- (5) Presumed father--A man who is legally assumed to be the father of a child because he meets the criteria found under Texas Family Code §160.204.
- (6) Parent Survey on the Acknowledgment of Paternity--A form promulgated by the Office of the Attorney General to assist parents and the certified entity in the completion of the Acknowledgment of Paternity.

### **RULE §55.403 Forms**

The certified entities offering voluntary paternity establishment services may obtain the prescribed Acknowledgment of Paternity and Denial of Paternity forms and the Rescission of Acknowledgment of Paternity forms by contacting the Texas Department of State Health Services, Vital Statistics Unit.

### **RULE §55.404 Voluntarily Acknowledging Paternity**

(a) A man claiming to be the biological father and the mother may establish paternity before or after the birth of their child by voluntarily acknowledging paternity through a certified entity providing such services. The mother and father must read the Acknowledgment of Paternity form. In addition, both must listen to or view a video presentation of the rights and responsibilities of a parent, and alternatives to and legal consequences of acknowledging or denying paternity. Both the mother and father, separately or together, must then:

- (1) complete an Acknowledgment of Paternity form;
- (2) return the form to a certified entity.

(b) Both mother and father must present to the certified entity a valid driver license or another document (preferably a photo I.D.) to verify identity.

(c) The certified entity is responsible for filing the Acknowledgment of Paternity form with the Texas Department of State Health Services, Vital Statistics Unit, and providing all signatories with a copy of the form.

### **RULE §55.405 Denial of Paternity Form**

If the mother declares in the Acknowledgment of Paternity form that there is a presumed father of the child, the acknowledgment must be accompanied by a Denial of Paternity form signed by the mother and the presumed father, unless the presumed father is the man who is acknowledging paternity. The Denial of Paternity is signed using the same procedures as the Acknowledgment of Paternity outlined in §55.404 of this title. The Acknowledgment of Paternity form and the Denial of Paternity form may be filed with the Texas Department of State Health Services, Vital Statistics Unit separately or simultaneously. If the acknowledgment and denial are both necessary, neither document is valid until both documents are filed.

### **RULE §55.406 Entities Providing Paternity Establishment Services**

(a) The following entities must provide voluntary paternity establishment services after being certified by the Office of the Attorney General:

- (1) all public and private birthing hospitals;
- (2) all birthing centers;
- (3) the Texas Department of State Health Services, Vital Statistics Unit; and
- (4) a registered nurse working in a partnership program funded through the nurse-family partnership competitive grant program under Chapter 531, Subchapter M, Texas Government Code.

(b) The following entities may provide voluntary paternity establishment services at their option, but only after being certified by the Office of the Attorney General:

- (1) local birth registrars;
- (2) public health clinics;
- (3) private health care providers;
- (4) certified nurse midwives;
- (5) licensed midwives;
- (6) agencies providing assistance or services under Title IV, Part A of the Social Security Act, agencies providing food stamp eligibility service, and agencies providing child support enforcement (IV-D) services;
- (7) Head Start, child care facilities, and individual child care providers;
- (8) community action agencies and community action programs;
- (9) secondary education schools;
- (10) legal aid agencies;
- (11) private attorneys; and
- (12) any public or private health, welfare or social services organization.

### **RULE §55.407 Certification**

All birthing hospitals, all birthing centers, the Texas Department of State Health Services, Vital Statistics Unit, a registered nurse working in a partnership program funded through the nurse-family partnership competitive grant program, and each certified entity must have staff who:

- (1) provide the mother and father the opportunity to voluntarily acknowledge paternity;
- (2) provide the mother and father an opportunity to speak, either by telephone or in person, with staff who are trained to clarify information and answer questions about paternity establishment;
- (3) receive training from the Office of the Attorney General at least once yearly on the requirements for voluntarily establishing paternity. (The training is not to exceed eight (8) hours at locations throughout the state established by the Office of the Attorney General and the Texas Department of State Health Services, Vital Statistics Unit.)
- (4) use only the Acknowledgment of Paternity and Denial of Paternity forms and Rescission of Acknowledgment of Paternity forms promulgated by the Texas Department of State Health Services, Vital Statistics Unit.
- (5) use the brochures and training manuals, including the oral and written information, provided by the Office of the Attorney General and the Texas Department of State Health Services, Vital Statistics Unit.
- (6) are periodically evaluated by the Office of the Attorney General.

### **RULE §55.408 Parent Survey**

- (a) Each certified entity must provide the parents (and presumed father, if applicable,) with the opportunity to complete and sign the Parent Survey if the parent was provided the opportunity to voluntarily acknowledge paternity. The Parent Survey on the Acknowledgment of Paternity (AOP) may be found at: <http://www.oag.state.tx.us/cs/forms/1798.pdf>.
- (b) If the parents or presumed father do not wish to complete the survey, the certified entity must note this on the form.
- (c) The certified entity must retain the parent survey in its files.

### **RULE §55.409 Rescinding Acknowledgment or Denial**

Any signatory to an Acknowledgment of Paternity or Denial of Paternity may rescind an acknowledgment or denial through a certified entity providing such services. The rescinding party must:

- (a) Complete a Rescission of Acknowledgment of Paternity form;
- (b) Mail copies of the Rescission of Acknowledgment of Paternity form by certified or registered mail to all people who signed the original Acknowledgment of Paternity or Denial of Paternity and the Attorney General's Office, if required.
- (c) Submit the original Rescission of Acknowledgment of Paternity form and original proof of mailing of the copies to Texas Department of State Health Services, Vital Statistics Unit by the date a proceeding related to the child is initiated or the 60th day after the effective date of the acknowledgment, whichever comes earlier.