

5101:2-53-05

Voluntary placement for temporary custody of Indian child.

- (A) A public children services agency (PCSA) or private child placing agency (PCPA) may accept a voluntary placement agreement for temporary custody of an Indian child from a parent, guardian or Indian custodian for the purpose of placing the child in substitute care only if the agreement is executed upon an JFS 01645 "Agreement for Temporary Custody of Child" (rev. 4/2006) and is recorded before a juvenile court, or a tribal court, if jurisdiction has been transferred there.
- (B) The agency shall submit a notification of the voluntary placement agreement to the tribe's designated agent or tribal court pursuant to rule 5101:2-53-03 of the Administrative Code. The tribe ~~still~~ retains the right to participate as an interested party or to intervene at any point, even if the tribe has declined to be involved.
- (C) An agency shall abide by the agreement for temporary custody ~~policies~~ requirements set forth in rules 5101:2-42-06, 5101:2-42-07 and 5101:2-42-08 of the Administrative Code, and shall ~~observe and~~ document in the child's case record that:
- (1) The agreement for temporary custody was not executed until at least ten days after the birth of the Indian child. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.
 - (2) The terms and consequences of the agreement for temporary custody ~~shall be~~ were fully explained in detail. If the agency has reason to believe that the parent or Indian custodian will not understand the agreement for temporary custody because of possible limited English proficiency, a copy of the agreement shall be sent to the bureau of Indian affairs (BIA) area office nearest to the residence of that person, and a request ~~is~~ made of BIA to arrange for translation in the language that the parent or Indian custodian best understands. The voluntary agreement for temporary custody shall not be executed until it has been translated into the language that the parent or Indian custodian best understands.
 - (3) The parent or legal guardian is requesting the agency take custody and provide services because one of the following conditions exists:
 - (a) The child cannot remain at home due to a temporary crisis in the family, and cannot safely stay with a member of the extended family or another responsible adult well known to the child.
 - (b) The child needs to be placed outside the home due to problems in the family that could compromise the safety of a family member, and a placement of limited duration with assistance from the agency providing intensive services that are likely to reunite the family and

reduce the safety concerns is needed.

- (4) The parent or legal guardian or custodian is immediately and temporarily unable to fulfill his or her parental responsibilities and this inability will be alleviated with short-term placement.
- ~~(3) The terms and consequences of the agreement for temporary custody are recorded in the case record with the following information:~~
- ~~(a) The parent or legal guardian is requesting the agency take custody and provide services.~~
- ~~(b) The parent or legal guardian or custodian is immediately and temporarily unable to fulfill his or her parental responsibilities.~~
- ~~(c) This inability will be alleviated with short term placement when one of the following conditions exists:~~
- ~~(i) The child cannot remain at home due to a temporary crisis in the family, and cannot safely stay with a member of the extended family or another responsible adult well known to the child.~~
- ~~(ii) The child needs to be placed outside the home due to problems in the family that could compromise the safety of a family member, and a placement of limited duration with assistance from the agency providing intensive services that are likely to reunite the family and reduce the safety concerns.~~
- (D) Any parent or Indian custodian may withdraw consent to a foster care placement under law at any time, orally or by written notification and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.
- (E) If a parent or Indian custodian request the termination of the voluntary agreement and the agency has reason to believe the child will be unsafe if returned home to the parent or Indian custodian, the agency shall submit a request to the juvenile court requesting temporary or permanent custody.

Effective:

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Certification

Date

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