

5101:2-53-07

Permanent surrender or parental consent to adoptive placement of Indian children.

- (A) A public children services agency (PCSA) or private child placing agency (PCPA) may accept a permanent surrender of an Indian child by a parent or Indian custodian only if the surrender is executed on a JFS 01666 "Permanent Surrender of Child" (rev. 6/2006) and is recorded before a juvenile court, or a tribal court if jurisdiction has been transferred there.
- (B) The agency shall act in accordance by the permanent surrender requirements set forth in rules 5101:2-42-09 and 5101:2-42-95 of the Administrative Code with the exception that a permanent surrender for an Indian child cannot be executed until at least ten days after his or her birth.
- (C) All juvenile court proceedings are to be notified to the tribe's designated agent or tribal court by the agency of every proceeding affecting their tribal member even if the tribe has declined to be involved. The tribe still retains the right to participate as an interested party or to intervene at any point in the proceedings.
- (D) The agency shall recognize and adhere to the following rights of parents of Indian children relative to the withdrawal of permanent surrender or parental consent to adoptive placements:
- (1) A permanent surrender action or consent to adoption may be withdrawn at any time for any reason prior to the issuance of a final decree of adoption. Upon such withdrawal, the Indian child is to be returned to his or her parent or Indian guardian.
 - (2) Within two years after the entry of a final decree of adoption, the parent or Indian custodian may withdraw consent to adoption if the parent or Indian custodian can prove parental consent was obtained through fraud or duress. Upon court order, the Indian child is to be returned to the parent or Indian custodian.
- (E) If the agency has reason to believe that the parent or Indian custodian will not understand the permanent surrender because of possible limited English proficiency, a copy of the JFS 01666 form 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.

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Certification

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Date

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