

5101:2-53-08

**Placement preference of Indian children.**

(A) When the public children services agency (PCSA) or private child placing agency (PCPA) has temporary custody of an Indian child, it shall select a substitute care setting that is consistent with the best interest and special needs of the child and that meets the following criteria:

- (1) Is considered the least restrictive, most family-like setting available to meet the child's emotional and physical needs.
- (2) Is in close proximity to the home from which the child was removed or the home in which the child will be permanently placed.
- (3) Is in close proximity to the school in which the child was enrolled prior to placement.
- (4) Is designed to enhance the likelihood of achieving permanency plan goals.
- (5) Is able to provide a safe environment for the child.

~~(A) The placement preference requirements shall be in accordance with the Indian Child Welfare Act (ICWA) (1978), based on the prevailing social and cultural standards:~~

- ~~(1) In which the parent or extended family resides; or~~
- ~~(2) With which the parent or extended family members maintain social and cultural ties.~~

~~(B) When an Indian child must be removed from his or her home and placed into substitute care (nonadoptive), the public children services agency (PCSA) or private child placing agency (PCPA) shall:~~

- ~~(1) Select the least restrictive setting, in a most family like setting to meet the child's needs.~~
- ~~(2) Place within reasonable proximity to his or her home, taking into account any special needs of the child.~~

~~(C)~~(B) In any substitute or ~~preadoptive~~pre-adoptive placement consideration, the agency shall consider placement preference to the following in order from least restrictive to most restrictive:

- (1) A member of the Indian child's extended family.
- (2) A foster home licensed, approved, or specified by the Indian child's tribe.

- (3) An Indian foster home certified by the Ohio department of job and family services (ODJFS) or another state agency with such authority.
  - (4) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
- (C) The agency shall attempt to place siblings in the same home unless it is not in the child's or siblings' best interest.
- (D) When the Indian child's tribe establishes a different order of preference by resolution for a non-adoptive substitute care placement (~~nonadoptive~~) or an adoptive placement, the agency or court effecting the placement shall abide by the tribe's order so long as: the placement is the least restrictive setting appropriate to the particular needs of the child.
- ~~(1) The placement is the least restrictive setting appropriate to the particular needs of the child.~~
- ~~(2) Where appropriate, in a voluntary placement agreement only, the preference of the Indian child or parent shall be considered. If a consenting parent evidences a desire for anonymity, the court shall give weight to such desire in applying the preferences.~~
- (E) In any adoptive placement of an Indian child, a placement preference shall be given, to the following:
- (1) A member of the child's extended family.
  - (2) Other members of the Indian child's tribe.
  - (3) Other Indian families.
  - (4) Other non-Indian prospective adoptive families.
- (F) If the agency believes that there is good cause not to abide by the order of placement preference, then its findings shall be based on one or more of the following considerations:
- (1) The request of the biological parents or, when age-appropriate, by the Indian child.
  - (2) The extraordinary physical or emotional needs of the child as determined by a

qualified expert witness.

- (3) The unavailability of preferred families after a diligent search for such families has been conducted.
- (G) The burden of establishing the existence of good cause not to follow the order of placement preference is the responsibility of the agency, if the agency's decision is that the placement preference not be followed.
- (H) Whenever an Indian child is placed by or leaves the custody of an agency, the agency shall complete a JFS 01646 "Report of Indian Child Placement" (rev. 11/2007). The JFS 01646 shall be submitted to ODJFS or documented in the statewide automated child welfare information system (SACWIS) within fourteen calendar days of the child's placement or termination from custody.
- (I) The Indian child's case record shall contain the complete record of placement determination.

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Certification

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